

THE LAW ON THE EUROPEAN ARREST WARRANT AND THE SURRENDER PROCEDURES BETWEEN MEMBER STATES OF THE EUROPEAN UNION OF 2004 IS PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF CYPRUS ACCORDING TO SECTION 52 OF THE CONSTITUTION.

No. 133(I) of 2004

A LAW TO PROVIDE FOR THE EUROPEAN ARREST WARRANT AND THE SURRENDER PROCEDURES OF REQUESTED PERSONS BETWEEN MEMBER STATES OF THE EUROPEAN UNION 2004.

For the purposes of harmonization with the European Union act referred to as-
“Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States” (OJ L 190, 18.7.2002, p.1).

The House of Representatives enacts as follows:

PART I

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| Short title. | 1. This Law may be cited as the European Arrest Warrant and Surrender Procedures of Requested Persons Between Member States of the European Union Law of 2004. |
| General provisions. | 2. (1)The prerequisites and the procedure relating to the issuance and the execution of the European arrest warrant are subject to the provisions of this Law.

(2)The implementation of the provisions of this Law shall not have the effect of violating the obligation to respect fundamental rights and fundamental legal principles, according to section 6 of the Treaty on European Union. In |

any case, the requested person shall not be extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

Purpose of the European arrest warrant.

3. (1) The European arrest warrant is a decision or Order issued by a judicial authority of a Member State of the European Union with a view to the arrest and surrender of a person who is in the territory of another Member State of the European Union and who is requested by the competent authorities of the issuing State of the warrant in the framework of criminal proceedings:

- (a) for the purposes of conducting a criminal prosecution or
- (b) for the purposes of executing a sentence or detention order.

Content and form of the European arrest warrant.

4. (1) The European arrest warrant shall contain the following information:

- (a) The identity and nationality of the requested person, if known
- (b) the name, address, telephone and fax numbers and e-mail address of the issuing judicial authority of the warrant
- (c) reference to the enforceable judgment, the arrest warrant or the relevant decision of the judicial authority
- (d) the nature and legal classification of the offence
- (e) a description of the circumstances in which the

offence was committed, including the time, place and degree of participation in the offence by the requested person

(f) the penalty imposed, if there is a final judgment, or the prescribed scale of penalties for the offence under the law of the issuing Member State and

(g) if possible, other consequences of the offence, including any incidental penalty for the offence

(2) The European arrest warrant may concern more than one offence.

(3) The European arrest warrant shall be translated into the official language or one of the official languages of the executing Member State of the warrant. Where a European arrest warrant is submitted to the Cypriot authorities it shall be formulated in one of the official languages of the Republic of Cyprus or in English.

(4) The issuing judicial authority may, if possible, fill in the document enclosed hereby, Annex I, which provides for the above-mentioned information.

Central authority.

5. The Ministry of Justice and Public Order, in its capacity as central authority, shall assist the competent issuing and executing authorities of the European arrest warrant, notably with regard to the administrative transmission and receipt of the European arrest warrant, as well as for all other official correspondence relating thereto. The central authority may also proceed to the keeping of statistics.

PART II

Issuance of the European arrest warrant

Competent issuing
judicial authority of
the European arrest
warrant.

6. The competent authority for the issuance of the European arrest warrant shall be the District Judge to the district of whom is subject the territorial jurisdiction of trial of the offence for which are required the arrest and surrender of the requested person, or the Court which has issued the decision with regard to the sentence or the detention order.

Issuance of the
European arrest
warrant.

7. The European arrest warrant shall be issued for acts which are punishable according to Cypriot criminal laws with a custodial sentence or a detention order for a maximum period of at least twelve (12) months or in the event where a penalty or order has already been passed for a sentence for a period of at least four (4) months.

Transmission of the
European arrest
warrant.

8. (1) Where the residence or the place where the requested person stays in are known, the District Judge may transmit the European arrest warrant directly to the executing judicial authority.

(2) The competent District Judge may, in any event, decide to proceed to an entry in the Schengen Information System (SIS). Such an entry shall be effected according to section 95 of the Schengen Agreement, when the said agreement shall be applicable to the Republic of Cyprus. This entry shall be equivalent to a European arrest warrant, provided that the information prescribed by section 4 subsection 1 of this Law are also laid down.

(3) Where the residence or the place where the requested person stays in are not known, the competent District Judge, via the central authority, proceeds to the required investigations, notably through the Schengen Information System, when the said Agreement shall be applicable to the Republic of Cyprus and the contact points of the European Judicial Network, in order to obtain that

information from the executing State. In view of the transmission of the European arrest warrant, the District Judge may also call on Interpol through the central authority.

(4) In any event, the competent District Judge may forward the warrant by any secure means capable of producing written records under conditions allowing the executing Member State to establish authenticity.

(5) All difficulties concerning the transmission or the authenticity of any document needed for the execution of the European arrest warrant shall be dealt with by direct contact between the judicial authorities involved, or, where appropriate, with the involvement of the central authorities of the Member States.

(6) The competent District Judge may forward at any time to the executing judicial authority any useful information, in addition to that included in the warrant.

Request for seizure
and handing over of
property.

9 (1) The competent District Judge shall have the right, along with the transmission of the European arrest warrant, to request from the executing judicial authority the seizure and handing over of objects which may be used as evidence or which have been in the possession of the requested person as a result of the offence.

(2) Any rights which the executing Member State or third parties may have acquired in the property referred to in subsection 1 shall be preserved. Where such rights exist, the competent District Judge shall return the property without charge to the executing Member State as soon as the criminal proceedings have been terminated.

Waiving the privilege or immunity of the requested person regarding jurisdiction.

10. Where the requested person enjoys a privilege or immunity regarding jurisdiction or execution in the executing Member State of the warrant and the power to waive the privilege or immunity lies with an authority of another State or international organization, the competent District Judge shall submit to that authority the relevant request with which it shall enclose the European arrest warrant.

PART III

Execution of the European arrest warrant

Competent executing judicial authority of the European arrest warrant.

11. (1) The competent authority for the arrest and custody of the requested person as well as for the executing decision of surrender or refusal shall be:

- (a) The competent District Judge in the district of whom is found or is believed to be found the requested person
- (b) The District Judge of Nicosia, in the event where it is not known where the requested person stays in.

(2) Where the requested person consents to surrender to the issuing State of the warrant, the competent judicial authority for the issuance of the executing decision of the warrant shall be the District Judge in the District of whom the requested person stays in or is arrested.

(3) Where the requested person does not consent to surrender to the issuing State of the warrant, the competent judicial authority for the issuance of the executing decision shall be the District Court in the District of which the requested person stays in or is arrested.

Execution of the European arrest warrant.

12. (1) Without prejudice to sections 13 to 15 of this Law, the European arrest warrant shall be executed provided that:

- (a) The act for which the European arrest warrant has been issued constitutes an offence punishable by a custodial sentence or detention order, according to the law of the issuing State and that it constitutes an offence in accordance with Cypriot criminal laws, regardless of its legal classification. In the event where the punishable act constitutes an offence in relation to taxes, duties, customs and exchange, the absence of imposition of the same kind of taxes or duties in the Republic of Cyprus or the absence of a provision of the same kind on taxes, duties, customs and exchange, shall not prevent the execution of the warrant.
 - (b) The Courts of the issuing State of the warrant have sentenced the requested person on the grounds of an offence to a custodial sentence or detention order for a period of at least four (4) months.
- (2) The following offences, if they are punishable in the issuing Member State by a custodial sentence or a detention order for a maximum period of at least three (3) years and as they are defined by the law of the issuing State of the warrant and without verification of the double criminality of the act, give rise to the execution of the European arrest warrant:
- (i) Participation in a criminal organization,
 - (ii) terrorism,
 - (iii) trafficking in human beings,

- (iv) sexual exploitation of children and child pornography,
- (v) illicit trafficking in narcotic drugs and psychotropic substances,
- (vi) illicit trafficking in weapons, munitions and explosives,
- (vii) corruption,
- (viii) fraud affecting the financial interests of the European Communities,
- (ix) laundering of the proceeds of crimes,
- (x) counterfeiting currency, including the euro,
- (xi) computer-related crime,
- (xii) environmental crime, including illicit trafficking in endangered animal species and endangered plant species and varieties,
- (xiii) facilitation of unauthorized entry and residence,
- (xiv) murder, grievous bodily injury,
- (xv) illicit trade in human organs and tissue,
- (xvi) kidnapping, illegal restraint and hostage-taking,

- (xvii) racism and xenophobia,
- (xviii) organized or armed robbery,
- (ixx) illicit trafficking in cultural goods, including antiques and works of art,
- (xx) swindling,
- (xi) racketeering and extortion,
- (xii) counterfeiting and piracy of products,
- (xiii) forgery of administrative documents and trafficking therein,
- (xiv) forgery of means of payment,
- (xv) illicit trafficking in hormonal substances and other growth promoters,
- (xvi) illicit trafficking in nuclear and radioactive materials,
- (xvii) rape,
- (xviii) arson,
- (xix) crimes within the jurisdiction of the International Criminal Court,
- (xx) unlawful seizure of aircraft/ships,
- (xxi) sabotage.

Grounds for
mandatory non-

13. The executing judicial authority of the warrant shall refuse

execution of the
European arrest
warrant.

to execute the European arrest warrant in the following cases:

- (a) Where the offence on which the European arrest warrant is based is covered by amnesty according to Cypriot criminal laws, provided that the Republic of Cyprus has jurisdiction to prosecute the offence,
- (b) where the executing judicial authority of the warrant is informed that the requested person has been finally judged by a Member State of the European Union in respect of the same acts, provided that, where there has been a sentence, the sentence has been executed or is currently being executed or may no longer be executed under the law of the sentencing Member State,
- (c) where the person who is the subject of the European arrest warrant may not, owing to his age, be held criminally responsible for the acts on which the arrest warrant is based under Cypriot criminal laws,
- (d) where the European arrest warrant has been issued in view of the prosecution or punishment of a person on the grounds of his or her sex, race, religion, ethnic origin, nationality, language, political beliefs, sexual orientation or action in favor of freedom,
- (e) where the person who is the subject of the European arrest warrant, in view of the execution of custodial sentence or detention order, is a national and the Republic of Cyprus undertakes the

obligation to execute the sentence or detention order according to its criminal laws,

- (f) where the person who is the subject of the European arrest warrant in view of his prosecution is a national, unless it is ensured that after being heard, he or she shall be transferred to the Republic of Cyprus, in order to serve a custodial sentence or a detention order which shall be passed against him/her in the issuing State of the warrant.

Grounds for optional non-execution of the European arrest warrant.

- 14. The judicial authority which decides about the execution of the European arrest warrant may refuse to execute the said warrant in the following cases:

- (a) Where the person who is the subject of the European arrest warrant is prosecuted in the Republic of Cyprus for the same offence as that on which the European arrest warrant is based,
- (b) where the Cypriot authorities have decided either not to prosecute for the offence on which the European arrest warrant is based or to halt proceedings,
- (c) where the criminal prosecution or punishment of the requested person is statute-barred according to the laws of the Republic of Cyprus and the offence falls within the jurisdiction of Cypriot judicial authorities under Cypriot criminal laws,
- (d) where the requested person has been finally judged in respect of the offence on which the European arrest warrant is based, in a Member State of the

European Union, which prevents further proceedings,

- (e) where the executing judicial authority is informed that the requested person has been finally judged by a third State in respect of the same acts provided that, where there has been a sentence, the sentence has been executed or is currently being executed or may no longer be executed under the law of the sentencing country,
- (f) where the European arrest warrant has been issued for an offence, which: (i) is regarded by Cypriot criminal law as having been committed in whole or in part in the territory of the Republic of Cyprus or in a place treated as such, or (ii) has been committed outside the territory of the issuing Member State of the warrant and Cypriot criminal laws do not allow prosecution for the same offence when committed outside the territory of the Republic of Cyprus,
- (g) where the European arrest warrant has been issued for the purposes of execution of a custodial sentence or detention order, provided that the requested person stays in Cyprus, or is a national or resident of Cyprus, and the Republic of Cyprus undertakes to execute the sentence or detention order in accordance with its criminal laws.

Guarantees for the execution of the European arrest warrant.

15. (1) Where the European arrest warrant has been issued for the purposes of executing a sentence or detention order imposed by a decision rendered *in absentia*, and if the person concerned has not been summoned in person or otherwise informed of the date and place of the hearing which led to the decision rendered *in absentia*, the

execution of the European arrest warrant by the competent judicial authority may be subject to the condition that the issuing judicial authority of the warrant gives an assurance deemed adequate to guarantee that the person who is the subject of the European arrest warrant will have an opportunity to apply for a retrial of the case in the issuing Member State of the warrant and to be present at the judgment

(2) Where the offence on the basis of which the European arrest warrant has been issued is punishable by custodial life sentence or life-time detention order, the execution of the European arrest warrant by the competent judicial authority may be subject to the condition that the legal system of the issuing State of warrant provides for a review of the penalty imposed -- on request or at the latest after twenty (20) years--

or

for the application of measures of clemency to which the person is entitled to apply under the law of the issuing State of the warrant, aiming at a non-execution of such penalty or measure.

(3) Where a person who is the subject of a European arrest warrant for the purpose of prosecution is a resident of the Republic of Cyprus, the execution of the European arrest warrant by the competent judicial authority may be subject to the condition that the requested person, after being heard, is returned to the Republic of Cyprus in order to serve there the custodial order or detention order passed against him in the issuing State of the warrant.

warrant.

warrant and satisfies itself that the warrant has been issued in due form, it shall issue a certificate and shall see to the arrest of the requested person.

(2) Upon presentation of the certificate mentioned in subsection (1) of this section to the competent judge along with the European arrest warrant, the judge shall proceed to the issuance of the European arrest warrant for the purposes of this Law, provided that he satisfies himself that the conditions of issuance of the arrest warrant of the requested person, are met.

(3) Where the authority which adopts the European arrest warrant is not competent for seeing to the execution of the warrant, it shall transfer the latter to the competent authority and shall keep the issuing judicial authority of the warrant informed.

(4)(a) In the event of urgency, the competent judicial authority of the executing State may issue a temporary arrest warrant of a requested person for whom there is a European arrest warrant, and prior to its transmission, at the request, by post, by wire or through the International Organization of Criminal Police or by any other means, of the issuing State of the warrant.

(b) The request for temporary arrest shall contain/deal with the European arrest warrant and shall announce the intention to proceed to its transmission.

(c) The temporary arrest shall not exceed three (3)

days from the date of arrest of the requested person.

- (d) Where the European arrest warrant is transferred within the above-mentioned time-limit, the provisions of section 16, subsections 1 to 3 shall be applied.
- (e) If the European arrest warrant is not received within the above mentioned time-limit the arrested person shall be released.
- (f) The release shall not prevent any further arrest if the European arrest warrant is issued at a subsequent stage.

Arrest and rights of
the requested
person.

17. (1) Where the requested person is arrested on the basis of the European arrest warrant, he or she shall be conducted within twenty-four (24) hours to the District Judge. After having satisfied himself with regard to the identity of the requested person, the District Judge shall inform the latter about the existence and the content of the warrant, the right to have legal counsel and an interpreter and the possibility of consent to the surrender in the issuing State of the warrant.

(2) The arrested person is directly or through his or her legal counsel entitled, to request and receive at his or her expense, copies of all the documents.

(3) Upon entry in the Schengen Information System (SIS), in accordance with section 95 of the Treaty of year 1990 on the application of the Schengen Treaty of year 1985, entry which does not yet constitute a European arrest warrant, when the relevant provisions of the Treaty shall be

applicable to the Republic of Cyprus, it shall be possible to have the arrest of the requested person effected upon order of the competent Judge. The custody of the arrested person may not be longer than twenty (20) days, within which the European arrest warrant must be received. This time-limit is subject to prolongation by the competent District Judge in the event of serious grounds. In view of the prolongation, the District Judge informs the issuing judicial authority of the warrant. After the expiration of forty (40) days the person in detention shall be in any event released.

- (4) If the arrested person in accordance with the above mentioned subsections challenges his identity, the Judge shall take a final decision within five (5) days, after having heard the arrested person and his or her legal counsel.

Detention of the
requested person.

18. (1) After the arrest of the requested person and the attestation of his or her identity, the competent District Judge shall decide whether it is advisable to keep the person in detention, in order to prevent the latter absconding or to release the person with or without restrictive measures. The District Judge may order the temporary dismissal of the requested person and the imposition of restrictive measures.

- (2) The restrictive measures which have been imposed on the requested person may be replaced by detention, in the event of danger of the person absconding.

Consent to
surrender.

19. (1) If the arrested person declares that he or she consents to surrender, that consent and, if appropriate, the express renunciation of entitlement to the speciality rule referred to in section 36 of this Law, shall be given before the

competent District Judge.

(2) The District Judge shall clearly inform the requested person of the consequences of the consent to surrender, the renunciation of entitlement to the speciality rule and the right to be assisted by a legal counsel and an interpreter. The requested person shall also be informed by the District Judge about the irrevocable character of his or her declarations.

(3) For the purposes of information relating to the previous section and the answers of the requested person, minutes shall be kept. Where, after the said information, the requested person declares that he wishes to proceed to the relevant declarations, the consent and, if appropriate, the renunciation referred to in subsection 1 of this section shall be inserted in the minutes.

No consent to
surrender.

20. (1) Where the arrested person does not consent to surrender, the competent Judge shall fix a hearing day.

(2) The person in question shall have the right to appear in Court with legal counsel and an interpreter of his or her choice or, where he or she does not have one, the person in question shall have the right to ask for the appointment of legal counsel by the competent Judge.

Decision about the
execution of the
European arrest
warrant.

21. (1) The decision about the execution of the European arrest warrant shall be issued within the time-limits referred to in section 23 of this Law.

(2) Where the judicial authority which decides about the execution of the warrant considers that the information

which has been transferred by the issuing Member State of the warrant is not adequate so as to allow the making of a decision on the issue of surrender, it shall request, through the Central Authority, the urgent producing of required additional information, in particular in relation to sections 4 and 13 to 15 of this Law, and it may also fix a deadline in view of their receipt, taking into consideration the obligation to observe the time-limits prescribed in section 23 of this Law.

- (3) The decision concerning the execution or non-execution of the European arrest warrant shall be substantiated.

Decision in the event of multiple requests.

22. (1) If two or more Member States have issued a European arrest warrant for the same person, the decision on which one of the European arrest warrants shall be executed shall be taken by the competent District Judge who decides about the execution of the warrant. During the adoption of this decision, due consideration shall be given to all the circumstances and especially the relative seriousness and place of the offences, the respective dates of the European arrest warrants and whether the warrant has been issued for the purposes of prosecution or for execution of a custodial sentence or detention order.

- (2) The competent Judge who decides about the execution of the warrant may seek the advice of “Eurojust” when making the choice referred to in paragraph 1.

- (3) In the event of a conflict between a European arrest warrant and a request for extradition submitted by a third country, the decision on whether the European arrest warrant or the extradition request takes precedence, shall

be taken by the Minister of Justice and Public Order with due consideration to all the circumstances, in particular those referred to in subsection (1) and those mentioned in the applicable convention.

(4) The provisions of this Article shall be without prejudice to Member States' obligations under the Statute of International Criminal Court.

Time-limits for the execution of the European arrest warrant.

23. (1) In cases where the requested person consents to surrender, the competent District Judge shall decide about the execution of the European arrest warrant within ten (10) days after consent has been given.

(2) In cases where the requested person does not consent to surrender, the final decision for the execution of the warrant shall be taken within sixty (60) days from the arrest of the requested person.

(3) In special circumstances, where the European arrest warrant cannot be executed within the time-limits prescribed in subsections 1 and 2, the Court before which the case is pending shall immediately inform, through the Central Authority, the issuing judicial authority, giving the reasons for the delay. In these cases, time-limits may be extended by a further thirty (30) days.

(4) Where in exceptional circumstances the judicial authority which decides about the execution of the warrant, including the Supreme Court in the event of an appeal, cannot observe the time-limits prescribed in this section, it shall inform Eurojust, giving the reasons for the delay.

Legal remedy against the decision.

24. (1) In the event of non consent of the requested person, the

requested person and the Attorney General of the Republic of Cyprus shall have the right to lodge an appeal before the Supreme Court against the final decision of the competent Judge, within 3 days of the publication of the decision.

(2) The Supreme Court shall decide within eight (8) days after the appeal has been lodged. The requested person shall be summoned with due care of the Chief Registrar of the Supreme Court, in person or through his or her authorized attorney, within twenty-four (24) hours before the hearing.

Hearing or provisional transfer of the requested person until the adoption of the decision on the execution of the warrant.

25. (1) Pending the decision on the execution of the warrant, where the European arrest warrant has been issued for the purposes of prosecution and the provisional transfer of the requested person is sought from the issuing Member State of the European arrest warrant, the judicial authority which decides about the execution of the warrant shall be obliged:

- (a) Whether to accept the requested person to be heard in accordance with the provisions of subsections (2) and (3) of this Law,
- (b) whether to accept the provisional transfer of the requested person to the issuing State of the warrant in accordance with subsections 4 and 5 of this Law.

(2) The hearing of the requested person shall be effected by the Judge in whom lies territorial jurisdiction, assisted by any other person who shall be determined according to the law of the Member State of the applicant Court.

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(3) The hearing of the requested person is effected in accordance with the Law on Criminal Procedure, in

connection with the capacity of the requested person at the stage of his or her examination, and the terms mutually agreed between the issuing judicial authority of the warrant and the judicial authority which decides the execution of the warrant.

(4) The terms and duration of the provisional transfer are mutually agreed between the issuing judicial authority of the warrant and the judicial authority which decides about the execution of the warrant.

(5) In the event of provisional transfer, the requested person shall have the right to return to Cyprus, in order to appear to the surrender procedure which concerns him or her.

Privileges and
immunities.

26.(1) Where the requested person enjoys a privilege or immunity regarding jurisdiction or execution under Cypriot legislation, the time-limits referred to in section 23 shall not start running unless the competent Judge is informed of the fact that the privilege or immunity has been waived.

(2) Where the power to waive the privilege or immunity lies with an authority of the Republic of Cyprus, the judicial authority shall transfer this issue to the Attorney General of the Republic of Cyprus in view of, if appropriate, the adoption of measures relating to the lifting of immunity.

(3)(a) After the adoption of a decision by the Attorney General of the Republic of Cyprus, the Attorney General shall inform the competent judicial authority.

(b) After the acknowledgement of lifting a privilege or

immunity, the surrender procedure shall be instituted with regard to the requested person in accordance with this section.

Multiple international obligations.

27. (1) Where the requested person has been extradited to the Cypriot State from a third country and is protected by provisions relating to the speciality rule according to the arrangement on the basis of which that person has been extradited, the competent judicial authority which decides about the execution of the warrant shall not have the power to issue a decision on the execution of the warrant, unless the consent of the State from which the requested person has been extradited for his or her surrender to the issuing Member State of the warrant, has been obtained. For this purpose, the executing authority of the warrant shall submit, through the Central Authority, a request to the competent authority of the third State.

(2) The time-limits referred to in section 23 shall not start running until the day on which this speciality rule ceases to apply.

Notification of the decision.

28. The judicial authority which decides about the execution of the European arrest warrant shall promptly notify the decision on the European arrest warrant to the issuing judicial authority of the warrant.

Time-limit of the surrender of the requested person.

29. (1) With due care of the Central Authority, the requested person shall be surrendered as quickly as possible and at dates to be agreed on with the competent authority of the issuing State of the warrant. The time-limit for the surrender of the requested person shall not exceed ten (10) days, from the time of the issuance of the final decision on

the execution of the European arrest warrant. During the surrender, with due care of the Central Authority, all the information relating to the duration of detention of the requested person in the framework of the procedure of execution of the European arrest warrant shall be forwarded to the competent authority of the issuing State of the warrant.

(2) Where the surrender of the requested person within the time-limit prescribed in section 1 has proved to be impossible due to an Act of God in one of the Member States, at the request, formulated in writing, of the Central Authority, the Judge and the issuing judicial authority of the warrant shall immediately agree on a new date of surrender. In this case, the surrender shall be effected within ten (10) days of the newly agreed date.

(3) Exceptionally, the surrender may be temporarily suspended for serious humanitarian reasons, notably where it is reasonably estimated that the surrender would put the life or the health of the requested person in danger. The European arrest warrant shall be executed as soon as these grounds cease. The Judge, at the request, formulated in writing, of the Central Authority, shall inform the issuing judicial authority and shall agree with this new date of surrender. In this case, the surrender shall take place within ten (10) days of the newly agreed date.

(4) Where with the expiration of the above time-limits, the requested person continues to be in detention, he or she shall be released. In the event where restrictive measures have been imposed on him or her, these measure shall be waived by operation of law.

Postponed or
conditional
surrender.

30. (1) After having decided on the execution of the European arrest warrant, the competent judicial authority may postpone the surrender of the requested person, in order for him or her to be prosecuted in the Republic of Cyprus, or, if that person has already been sentenced, to execute in the Republic of Cyprus a sentence passed for an offence which is different from the one on which the European arrest warrant is based.

(2) Instead of postponing the surrender, the judicial authority which decides about the execution of the warrant, may temporarily surrender the requested person to the issuing Member State of the warrant under the terms which shall be agreed on in writing with the issuing judicial authority of the warrant.

Seizure and handing
over of objects.

31. (1) The competent judicial authority for the execution of the warrant shall proceed ex officio or at the request of the issuing judicial authority of the warrant, to the seizure and handing over of objects which may be used as evidence or are in the possession of the requested person as a result of the offence.

(2) The handing over of the objects shall be effected even where it is not possible to execute the European arrest warrant due to the death or escape of the requested person.

(3) Where the objects are liable to seizure or confiscation in the Republic of Cyprus, the competent authority, may, if the objects are needed in connection with pending criminal proceedings, temporarily retain them or hand them over to the issuing Member State, on condition that they are

returned.

- (4) Any rights which the authorities of the Republic of Cyprus or third parties may have acquired to the objects subject to seizure, shall be preserved.

PART IV

Transit of the requested person

Terms of transit
through the territory
of the Republic of
Cyprus.

32. (1) The transit through the territory of the Republic of Cyprus of a requested person to be surrendered to another Member State, may be permitted by the competent authority provided for in section 33 of this Law, at the request of the issuing judicial authority of the warrant.

- (2) In the transit request relating to the requested person, the following information shall be provided for:

- (a) the identity and nationality of the requested person,
- (b) the existence of a European arrest warrant,
- (c) the nature and legal classification of the offence and
- (d) the description of the circumstances of the offence, including the date and place of commission.

- (3) Where the person who is the subject of the European arrest warrant for the purposes of serving a custodial sentence or detention order, is a national, the competent authority shall refuse his or her transit. In the event where this person resides in Cyprus, the competent authority may refuse his or her transit.

(4) Where the person who is the subject of a European arrest warrant, for the purposes of prosecution, is a national, the competent authority shall refuse his or her transit, unless it is ensured that after being heard, that person shall be in transit in the Republic of Cyprus, in order to serve there the custodial sentence or detention order passed against him or her by the issuing Member State of the warrant. Where that person resides in the Republic of Cyprus, his or her transit may be subject to the above mentioned condition.

(5) The provisions of this section shall apply *mutatis mutandis* when the transit concerns a person to be extradited by a third country to a Member State. In this case, the extradition request shall have the meaning of the European arrest warrant.

(6) The provisions of this section shall not apply in the case of transport by air without a scheduled stopover. However, if an unscheduled landing occurs, the issuing Member State of the warrant shall provide the competent authority of the Republic of Cyprus with the information provided in subsection 2.

Competent authority. 33. (1) The Central Authority shall be responsible for receiving transit requests and the necessary documents, as well as any other official correspondence relating to transit requests.

(2) The transit request and the information prescribed in subsection 2 of section 32 shall be addressed to the Competent Authority by any means capable of producing a written record.

Transit request of a Cypriot authority. 34. The Central Authority shall make a request for the transit of

the requested person through the territory of a Member State of the European Union to the competent authority of that State, when this is imposed for his or her surrender to Cyprus. In this request, the information referred to in subsection 2 of section 32 of this Law shall be included.

PART V

Effects of the surrender

Deduction of the period of detention served in the executing State of the warrant.

35. The period of detention of the requested person served in the executing State of the European arrest warrant in the framework of the surrender procedure to the competent Cypriot authority, shall be deducted from the total period of detention in Cyprus in the event of a custodial sentence or detention order passed against the requested person.

Speciality rule.

36. (1) The requested person who has surrendered to the Cypriot authorities shall neither be prosecuted nor be sentenced or be deprived by any other means of his or her liberty, on the grounds of an offence which has been executed prior to his or her surrender, and which is different from that on the basis of which the European arrest warrant has been issued.

(2) Subsection 1 shall not apply in the following cases:

- (a) Where the person having had an opportunity to leave the Cypriot territory has not done so within forty-five (45) days of his or her final discharge, or that person has returned after leaving it.
- (b) Where the offence is not punishable by a custodial sentence or detention order.
- (c) Where the criminal proceedings do not give rise to the application of a measure restricting personal

liberty.

- (d) Where the surrendered person could be liable to a penalty or a measure not involving the deprivation of liberty, in particular a financial penalty or a measure in lieu thereof, even if the penalty or measure may give rise to a restriction of his or her personal liberty.
 - (e) Where the judicial authority of execution of the warrant gives its consent following the submission of a relevant request, in accordance with subsection 4 of this section.
 - (f) Where the surrendered person has expressly renounced the benefit of the speciality rule, along with his or her consent to surrender to the Republic of Cyprus, to the competent judicial authority of the executing State of the warrant.
 - (g) Where the surrendered person has expressly renounced the speciality rule with regard to specific offences preceding his/her surrender. Renunciation shall be given before the competent Judge, following the information given by the latter to that person with regard to the consequences of the renunciation of the speciality rule and to the right to appear in Court assisted by legal counsel and/or, if appropriate, by an interpreter. For the information and the declarations of that person a report shall be drawn up.
- (3) The request for consent under point (e) of the previous subsection, which is submitted to the executing judicial

authority of the warrant, shall be accompanied by information mentioned in section 4 subsection 1 of this Law and by the translation provided for in subsection 3 of the same section.

(4) Where the consent of the Cypriot judicial authority having decided the execution of the warrant is requested in order to prosecute, to sentence or detain the person who surrendered in the issuing State of the warrant for a different offence committed previously to the issuance of the European arrest warrant, the above-mentioned judicial authority shall take a decision within thirty (30) days at the latest, after the receipt of the request, the translation and the information provided for in section 4 of this Law. Consent shall be given when the offence for which it is requested is itself subject to surrender in accordance with section 12 of this Law. The judicial authority shall refuse to consent if the grounds provided for in section 13 of this Law are met, as well as in the case where the issuing State of the warrant does not provide the requested guarantees prescribed in section 15 of this Law. The judicial authority may refuse the consent for the grounds laid down in section 14 of this Law.

Subsequent
surrender to a
Member State of the
European Union.

37. (1) A person which has surrendered to the competent Cypriot authorities in execution of the European arrest warrant, may, without the consent of the executing State of the warrant, surrender to another Member State of the European Union, provided that a relevant European arrest warrant has been issued for an offence preceding the surrender of that person, where:

(a) The requested person, even if he or she had the opportunity to leave the territory of the Republic of

Cyprus, has not done so within forty-five (45) days of his or her final discharge, or has returned to it after leaving it.

- (b) The requested person does not benefit from the speciality rule, in accordance with section 36 subsections 2(a), (e) and (g) of this Law.
 - (c) The requested person consents to surrender to a different Member State than the executing Member State, under the European arrest warrant. The declaration related to the consent shall be made before the competent Judge, following the information provided by the latter on the consequences of the consent and his or her right to appear in Court with legal counsel or, if appropriate, an interpreter. For the information and the declarations of the requested person, a report shall be drawn up.
- (2) Where the consent of the executing judicial authority of the warrant is required, the Central Authority shall submit a relevant request to the above mentioned authority. The consent request shall be accompanied by the information referred to in section 4 subsection 1 of this Law and the translation provided for in subsection 3 of the same section.
- (3) Where the consent of the Cypriot judicial authority which has decided the execution of the warrant is required, for the purposes of surrender of the requested person to another Member State for an offence which has been committed prior to his or her surrender in accordance with a European arrest warrant, the above mentioned judicial authority shall

decide within thirty (30) days of the receipt of the request and the translation referred to in section 4 subsection 3 of this Law, at the latest. The consent shall be given where the offence, on the basis of which it is requested, gives rise to a surrender, according to section 12 of this Law. The judicial authority may refuse to consent where the grounds prescribed in section 13 of this Law are met and the issuing State of the warrant does not provide, if appropriate, possible guarantees prescribed in section 15 of this Law. The judicial authority may refuse to consent for the grounds provided for in section 14 of this Law.

Subsequent
extradition to a third
State.

38. (1) A person, who has been surrendered to the Cypriot authorities in execution of a European arrest warrant, shall not be extradited to a third country, without the consent of the competent authority of the executing Member State of the warrant.

(2) Where the European arrest warrant is executed by the Cypriot judicial authority, the consent to the subsequent extradition of the requested person to a third country shall be given in accordance with the provisions of the conventions which are binding for Cyprus and in accordance with domestic law.

PART VI

Final and transitional provisions

Procedural
Regulation.

39. The Supreme Court may make a procedural regulation for the better execution of the provisions of this Law.

Expenses.

40. In the event of expenses incurred from the execution of the European arrest warrant in the territory of Cyprus, these expenses shall be borne by the Cypriot government. All other expenses, including the expenses of transit shall be borne by the issuing Member State of the warrant.

Relation to other
legal instruments.

41. Without prejudice to the application of this Law to the relations

between the Republic of Cyprus and third States, this Law shall replace the corresponding provisions of the following conventions applicable in the field of extradition in relations between the Member States of the European Union, provided that the Framework Decision shall be incorporated in the law of the Member State:

(a) The European Convention on Extradition of 13 December 1957, its additional protocol of 15 October 1975, its second additional protocol of 17 March 1978 and the European Convention on the Suppression of Terrorism of 27 January 1977 as far as extradition is concerned.

(b) The Convention of 10 March 1995 on Simplified Extradition procedure between the Member States of the European Union.

(c) The Convention of 27 September 1996 relating to Extradition between the Member States of the European Union.

(d) Title III, Chapter 4 of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, where this instrument is applicable to the Republic of Cyprus.

Transitional
provision.

42. (1) Extradition requests received before the entry into force of this Law, shall be governed by the relevant legal provisions on extradition. Extradition requests received after the entry into force of this Law, shall be governed by the provisions of this Law.

(2) When the relevant provisions of the Schengen Agreement become applicable to the Republic of Cyprus and until the

Schengen Information System is able to transmit all the information prescribed in section 4 subsection 1 of this Law, the entry of the requested person in that System shall produce the effects of the European arrest warrant, until the competent executing judicial authority which decides about the execution receives the original in due form.

ANNEX
EUROPEAN ARREST WARRANT ⁽¹⁾

This warrant has been issued by a competent judicial authority. I request that the person mentioned below be arrested and surrendered for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order.

⁽¹⁾ This warrant must be written in, or translated into, one of the official languages of the executing Member State, when that State is known, or any other language accepted by that State.

(a) Information regarding the identity of the requested person:.....

Name:

Forename(s):.....

Maiden name, where applicable:

Aliases, where applicable:

Sex:

Nationality:.....

Date of birth:

Place of birth:

Residence and/or known address:

Language(s) which the requested person understands (if known):.....

.....

Distinctive marks/description of the requested person:.....

.....

Photo and fingerprints of the requested person, if they are available and can be transmitted, or contact details of the person to be contacted in order to obtain such information or a DNA profile (where this evidence can be supplied but has not been included)

(b) Decision on which the warrant is based:

1. Arrest warrant or judicial decision having the same effect

Type:

2. Enforceable judgement:.....

.....

Reference:

(c) Indications on the length of the sentence:

1. Maximum length of the custodial sentence or detention order which may be imposed for the offence(s):

2. Length of the custodial sentence or detention order imposed:

.....

Remaining sentence to be served:

.....

.....

(d) Decision rendered in absentia and:

- the person concerned has been summoned in person or otherwise informed of the date and place of the hearing which led to the decision rendered in absentia,
- or
- the person concerned has not been summoned in person or otherwise informed of the date and place of the hearing which led to the decision rendered in absentia but has the following legal guarantees after surrender (such guarantees can be given in advance)

Specify the legal guarantees

.....

.....

.....

(e) Offences:

This warrant relates to in total: offences.

Description of the circumstances in which the offence(s) was (were) committed, including the time, place and degree of participation in the offence(s) by the requested person:

Nature and legal classification of the offence(s) and the applicable statutory provision/code:

I. If applicable, tick one or more of the following offences punishable in the issuing Member State by a custodial sentence or detention order of a maximum of at least 3 years as defined by the laws of the issuing Member State:

- ☐ participation in a criminal organisation;
- ☐ terrorism;
- ☐ trafficking in human beings;
- ☐ sexual exploitation of children and child pornography;
- ☐ illicit trafficking in narcotic drugs and psychotropic substances;
- ☐ illicit trafficking in weapons, munitions and explosives;
- ☐ corruption;
- ☐ fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of European Communities' financial interests;
- ☐ laundering of the proceeds of crime;
- ☐ counterfeiting of currency, including the euro;
- ☐ computer-related crime;
- ☐ environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties
- ☐ facilitation of unauthorised entry and residence;
- ☐ murder, grievous bodily injury;
- ☐ illicit trade in human organs and tissue;
- ☐ kidnapping, illegal restraint and hostage-taking;
- ☐ racism and xenophobia;
- ☐ organised or armed robbery;
- ☐ illicit trafficking in cultural goods, including antiques and works of art;
- ☐ swindling;
- ☐ racketeering and extortion;
- ☐ counterfeiting and piracy of products;
- ☐ forgery of administrative documents and trafficking therein;
- ☐ forgery of means of payment;
- ☐ illicit trafficking in hormonal substances and other growth promoters;
- ☐ illicit trafficking in nuclear or radioactive materials;
- ☐ trafficking in stolen vehicles;
- ☐ rape;
- ☐ arson;
- ☐ crimes within the jurisdiction of the International Criminal Court;
- ☐ unlawful seizure of aircraft/ships;
- ☐ sabotage,

II. Full descriptions of offence(s) not covered by section I above:

.....

.....

(f) Other circumstances relevant to the case (optional information):

(NB: This could cover remarks on extraterritoriality, interruption of periods of time limitation and other consequences of the offence)

.....

g) This warrant pertains also to the seizure and handing over of property which may be required as evidence:

This warrant pertains also to the seizure and handing over of property acquired by the requested person as a result of the offence:

Description of the property (and location) (if known):

.....

(h) The offence(s) on the basis of which this warrant has been issued is(are) punishable by/has (have) led to a custodial life sentence or lifetime detention order.

— the legal system of the issuing Member State allows for a review of the penalty or measure imposed — on request or at least after 20 years — aiming at a non-execution of such penalty or measure, and/or

— the legal system of the issuing Member State allows for the application of measures of clemency to which the person is entitled under the law or practice of the issuing Member State, aiming at non-execution of such penalty or measure.

(i) The judicial authority which issued the warrant:

Official name:

Name of its representative ⁽²⁾:

.....

Post held (title/grade):

.....

File reference:

Address:

.....

Tel: (country code) (area/city code) (...)

Fax: (country code) (area/city code) (...)

E-mail:

Contact details of the person to contact to make necessary practical arrangements for the surrender:

.....

Where a central authority has been made responsible for the transmission and administrative, reception of European arrest warrants:

Name of the central authority:

.....

Contact person, if applicable (title/grade and name):

Address:

.....

Tel: (country code) [area/city code] (..)

Fax: (country code) (area/city code) (...)

E-mail

Signature of the issuing judicial authority and/or its representative:

.....
.....

Name:

Post held (title/grade).....

Date:

Official stamp (if available)

⁽²⁾ In the different language versions a reference to the "holder" of the judicial authority will be included.