



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 29 July 2005

11600/05

LIMITE

**COPEN 122
EJN 41
EUROJUST 45**

Translation provided by the German delegation

NOTE

from :	German delegation
to :	delegations
Subject :	European Arrest Warrant - Decision of the German Constitutional Court

Delegations find enclosed a letter from the German Federal Minister for Justice, Mrs. Brigitte Zypries, to her colleagues from other Member States.

Courtesy Translation

Ms. Brigitte Zypries
Federal Minister of Justice

21 July 2005

Dear Colleague,

By judgment dated 18 July 2005, the Constitutional Court of the Federal Republic of Germany declared null and void the German Act to Implement the Council Framework Decision of 13 June 2002 on the European Arrest Warrant and the Surrender Procedures between Member States. In its rationale for judgment, the Court confirmed the Framework Decision as a possible foundation of extradition matters; but it objected to the concrete substantive arrangements with regard to the extradition of German citizens to other Member States.

Until a new German act to implement the Framework Decision has taken effect, the extradition of German citizens to other Member States of the European Union is no longer possible.

However, the extradition of non-German citizens and stateless individuals from Germany will, to the greatest extent possible, continue in its previous scope and follow the requirements of the European arrest warrant. Following their arrest in Germany of a person sought for the purpose of extradition, on the basis of a European arrest warrant, an alert in the Schengen Information System, or an Interpol alert, the German authorities will request of the competent foreign courts or public prosecution offices that the necessary extradition documents be submitted within a suitable period of time.

German law also continues to allow German requests to be submitted for searches of fugitives and for their extradition from a Member State of the European Union to Germany pursuant to the basic features of the Framework Decision on the European arrest warrant. German courts and public prosecution offices may continue as before to issue arrest warrants and make them consistent in terms of form with a European arrest warrant.

Until the effective date of a new act implementing the European arrest warrant, I hope that extradition with respect to stateless individuals and foreign citizens is possible according to your law as well. For my part, I assure you that cases involving German citizens who cannot be extradited will be submitted to the competent law enforcement authorities with a view to initiating criminal proceedings in Germany.

Please be assured that I am committed to submitting a new act to implement the European arrest warrant, which takes the concerns of the Federal Constitutional Court into account, within the shortest possible period of time.

I have provided our other colleagues with this information in identical letters.

Yours sincerely(*sgd.*) Brigitte Zypries