

Execution of a European arrest warrant in France

Practical information for the attention of the judicial authorities of the other Member States of the European Union¹

PRELIMINARY REMARKS

1. France will not apply the European arrest warrant for offences committed before 1 November 1993. European arrest warrants issued for offences committed before that date will therefore be handled in accordance with extradition rules and procedure.
2. **Transitional provision:** if the wanted person was **arrested before 1 January 2004 on the basis of a request for provisional arrest** issued by another Member State, but the relevant extradition request has not yet reached France, the person concerned will be considered as having been detained with effect from that date under the European arrest warrant. The requesting judicial authority has **30 days** from the date of arrest to send the original (or certified true copy) of the European arrest warrant (with a translation into French) to the principal public prosecutor ("procureur général") with territorial jurisdiction. In any event detention may not exceed 40 days from the date of provisional arrest.
3. This information sheet relates only to the execution by France of European arrest warrants issued by another Member State. **For any information about European arrest warrants issued by the French judicial authorities,** it is possible to contact the issuing judicial authority directly [N.B. contact details for (principal) public prosecutors' offices will be provided later].

¹ This information sheet is only by way of example. It has been drawn up to show the information which France considers to be relevant for the other Member States. Depending on national legislation, certain headings could be deleted or added. In any case it is liable to change as the French legislation has not yet been definitively adopted.

I.
PROCEDURE FOR EXECUTION OF EUROPEAN ARREST WARRANTS

1. Arrest of the wanted person and referral to the examining magistrate of the court of appeal
 - (1) The arrested person will be presented within **48 hours following his arrest** to the **principal public prosecutor with territorial jurisdiction** (depending on the place of arrest), who will inform him, in a language which he understands, **of the existence and contents** of the European arrest warrant of which he is the subject (Art. 695-27 CCP – *Code of Criminal Procedure*), where appropriate on the basis of information contained in the SIS. He may be assisted by a lawyer or have an officially appointed lawyer and will be helped by an interpreter if need be. Once the original or certified true copy of the European arrest warrant has been received, the requested person will be **notified** of this (in the presence of his lawyer) by the principal public prosecutor, who will also inform him, in a language which he understands, that he may consent to or oppose his surrender.
 - (2) The public prosecutor will remand the person in custody unless he considers that he has presented sufficient guarantees that he will not try to evade the procedure (Art. 695-28 CCP).
 - (3) The person must appear before the **examining magistrate** of the court of appeal within **5 working days**² after his appearance before the principal public prosecutor (Art. 695-29 CCP). The examining magistrate is competent to decide whether he will be detained or released, where appropriate under judicial supervision (Art. 695-34 and 695-35 CCP).
2. Recording of consent
 - **Consent to surrender** must be given or repeated before the **examining magistrate**. Once it has been given to the examining magistrate, **it is irrevocable**.

² Working days exclude Saturdays, Sundays and public holidays.

- **Renunciation of the speciality rule** must also be **before the examining magistrate**.

3. Possibility for the issuing judicial authority to submit comments

Yes, on a decision by the examining magistrate, not open to appeal (Art. 695-30 CCP). It should be noted that the issuing judicial authority does not become a party to the proceedings and will therefore not be able to appeal.

4. Time limits within which the court must act

- **If the person consents to surrender:** Decision within **10 days** of his appearance before the examining magistrate (Art. 695-31 CCP), unless the court requests guarantees concerning the appeals which might be open to him, or concerning his return to France at the end of the proceedings (only for a French national) (Art. 695-32 CCP).
- **If the person opposes surrender:** Decision within **20 days** of his appearance before the examining magistrate (Art. 695-31 CCP), unless additional information is requested (Art. 695-33 CCP).

5. Possible appeal against the decision to surrender and time limits applicable

- **If the person has consented to surrender** before the examining magistrate: **No appeal possible** (Art. 695-31 CCP).
- **If the person opposes surrender**, appeal to the **Court of Cassation** (Criminal Chamber) is possible.

It must be made within **3 full days**³ (all days are included in this time limit, including Saturdays, Sundays and public holidays) (Art. 568-1 CCP).

³ All days are included in this time limit, including Saturdays, Sundays and public holidays

Although no time limit is imposed under national law for rulings by the Court of Cassation, France will comply with the time limits and procedures laid down in the Framework Decision. If such time limits cannot be met in cases where a ruling is annulled and the matters referred back to another court of appeal, the French Minister for Justice must be notified and will refer the matter to Eurojust on the grounds of "exceptional circumstances".

6. Grounds for non-execution admissible under French law:

6.1. Grounds for mandatory non-execution:

French courts will always refuse to execute European arrest warrants in the following instances (Art. 695-22 and 695-23 CCP):

1. if the offences for which the warrant was issued could be prosecuted and tried by a French court and proceedings have been dropped under the terms of an amnesty;
2. if a final judgment has been passed on the requested person, either by the French judicial authorities or by those of a Member State other than the issuing State, or those of a third State, in respect of the same offences as that for which the European arrest warrant was issued, providing that, in the event of conviction, the sentence has been or is currently being served or may no longer be executed under the law of the sentencing State;
3. if the requested person was under thirteen years old at the time of the offence for which the European arrest warrant was issued;
4. if the offence for which it was issued could be prosecuted and tried in a French court and proceedings or the execution of the sentence are statute-barred;
5. if it is established that the European arrest warrant has been issued for the purpose of prosecuting or punishing a person on the grounds of his or her sex, race, religion, ethnic origin, nationality, language, political opinions or sexual orientation, or if that person's position may be prejudiced for any of these reasons;

6. if the offence for which the arrest warrant was issued does not constitute an offence under French law (except in cases where the issuing judicial authority has indicated that the offence falls within one of the 32 categories of offence for which the dual criminality requirement has been withdrawn).

6.2. Grounds for optional non-execution:

French courts will be entitled to refuse to execute European arrest warrants in the following instances (Art. 695-24 CCP):

1. if, in respect of the offence for which the arrest warrant was issued, the requested person is subject to legal proceedings before a French court, or if the court has decided either not to prosecute or to halt proceedings;
2. if the person is requested so that a sentence or a detention order can be executed and has French nationality, and the competent French authorities undertake to execute the sentence or order;
3. if the offence for which the warrant was issued were committed wholly or partly in French territory;
4. if the offence was committed outside the territory of the issuing State and French law does not allow prosecution for that offence when committed outside national territory.

7. Multiple requests

If more than one Member State has issued a European arrest warrant for the same person, or if there is a conflict between a European arrest warrant and an extradition request issued by a third State, the decision on which takes precedence shall be taken by the **examining magistrate** (Art. 695-42).

8. Time limits for surrender of the person

The requested person will be surrendered no later than **10 days after the date on which the decision granting surrender becomes final** (if appeal to the Court of Cassation is possible, the decision will become final only after the time limit allowed to lodge the appeal has expired, i.e. 3 full days), unless there are serious humanitarian grounds for not doing so (Art. 695-38).

If the requested person is subject to legal proceedings in France or due to serve a sentence there, the examining magistrate may postpone surrender (Art. 695-39). The magistrate may however grant temporary surrender, or the hearing of the requested person by the president of the *Chambre d'instruction* (examining magistrate's office), in the presence of the issuing judicial authority, if the latter so requests.

II.
PRACTICAL DETAILS

1. Contact point for the execution of a European arrest warrant in French territory

- **If the person has been arrested:** the principal public prosecutor attached to the court of appeal at the place of arrest.
- **If the person has not been arrested but can be located:** the principal public prosecutor attached to the court of appeal at the requested person's place of residence.

2. Telephone numbers

- **Annex 1** contains the addresses and telephone numbers of the 33 French courts of appeal.
- The judicial authorities of the issuing State may also communicate via the contact points of the European Judicial Network, whose details can be found in **Annex 2**.

3. Time limits and procedures for forwarding arrest warrants to the French authorities:

European arrest warrants must be submitted to the French authorities within **6 working days⁴ of the person's arrest.**

Only **originals or certified true copies** of European arrest warrants should be sent. These may be forwarded **by any means which leaves a written record, such as a fax.**

4. Language in which European arrest warrants should be forwarded to the French authorities:

Originals of European arrest warrants should be sent **accompanied by a French translation only.**

5. Procedure for submitting comments

Contact the principal public prosecutor at the place of execution.

6. National contact point

Bureau de l'entraide pénale internationale (BEPI)
Direction des affaires criminelles et des grâces
Ministère de la justice
Place Vendôme
75001 PARIS
Tel.: 00.33.1.86.14.00

⁴ See footnote on page 4.