

IRELAND

Questionnaire on ways to improve international co-operation in the criminal field

1. Please give examples of criminal cases, without personal data, where public prosecutors in your country have experienced significant difficulties when working with public prosecutors or other judicial bodies in other European countries. In your opinion, what are the reasons of these difficulties (e.g. types of cases which raise special difficulties linked to domestic laws or foreign legislation or procedures, lack of knowledge of the steps to be taken, lack of direct contacts, insufficient knowledge of languages or legal instruments, or problems linked to translation, undue delay, gaps or inappropriate provisions of the relevant European Conventions and bilateral agreements or other texts, etc...).

This Office has not experienced significant difficulties when working with public prosecutors or other judicial bodies in other European countries.

It should be pointed out that incoming requests in relation to European Arrest Warrants (EAW), or otherwise in relation to mutual assistance, are channelled through the Minister for Justice, Equality and Law Reform, as the Central Authority for the European Arrest Warrant and Mutual Assistance, and are not dealt with by the Office of the Director of Public Prosecutions in Ireland.

The Central Authority has indicated that there can be some practical difficulties in relation to incoming EAWs due in part to the lack of familiarity with Irish legislative requirements. The European Arrest Warrant Act, 2003, as amended, which implements the Framework Decision on the European Arrest Warrant requires a warrant to be in order in respect of form and content before it can be endorsed by the Irish High Court. If the transmitted warrant is deficient in form and content it is necessary for the Central Authority to revert to the issuing Judicial Authority for additional information or a new EAW. There can be a delay in providing the requested additional information or the new EAW.

It is also appropriate, in this context, to point out that the investigation of crime in Ireland is a matter for the Irish police. While outgoing requests for mutual assistance are made by the Office of the Director of Public Prosecutions via the Central Authority, the replies to those requests are channelled through the Central Authority, to the Irish police and are not dealt with by the Office of the Director of Public Prosecutions in Ireland. However, this Office has not been advised of any significant difficulties in this regard.

2. Please give examples of criminal cases, without personal data, where public prosecutors in your country were satisfied with the co-operation with public prosecutors or other judicial bodies in other European countries. In your opinion, what are the reasons for this successful co-operation (e.g. types of cases which can be dealt with without difficulty, national or foreign good practices, practical measures contained in the provisions of the relevant European Conventions and bilateral agreements or other texts, etc...).

This Office is very satisfied with the level of co-operation received from public prosecutors and other judicial bodies in other European countries. This is particularly so in relation to outgoing European Arrest Warrants. In this regard prosecutors in this Office have built up some very good direct contacts with prosecutors in, in particular, the UK, Holland, Spain and Belgium. This direct contact has been of great assistance.

The Central Authority has indicated, in relation to incoming EAWs, that it has also received very positive co-operation with other States due to the growing familiarity with each other State's procedures and legislative requirements.

There are, in many cases, often informal contacts with national Prosecution Service representatives based in Eurojust, the Hague, through the national representative who have direct access (as required by Eurojust Decision of 2002) to their National Prosecution systems and can also liaise in their native language with Police, Judicial and Ministry of

Justice contacts as necessary. This has resulted in some cases is faster supply of necessary requested information.

The development of Eurojust since February 2002 has facilitated speedy responses to requests for, in particular, conviction records, details of court proceedings, searches and bank records in fraud and organized crime cases. Eurojust has also been of assistance in ensuring speedy responses to outgoing Letters Rogatory in a number of criminal investigations into moneylaundering, fraud, drug trafficking and organised illegal immigration.

3. Please give details of any suggestions made by public prosecutors and other judicial bodies in your country concerning the steps which could be taken to improve co-operation between prosecutors in Council of Europe member states, including proposals for an improvement of the relevant European treaties.

Public prosecutors could meet more often so that they learn about the various tools available to them in the areas of mutual assistance. It is also very important that Prosecutors forge links with their colleagues abroad and are familiar with their procedures.

There will always be some obstacles to judicial co-operation in the absence of harmonised Criminal Law and Procedure. Therefore increased opportunities of contacts between Prosecutors through training, study visits, conferences and use of other continuing educational opportunities is extremely useful in building mutual trust and confidence.

There are also, in an EU context, a number of initiatives in the Hague Programme of 2004 and subsequent Council and Commission Review of objectives that are underway which may assist. An example of one initiative is the Commission proposal under the current 2007 Work programme in Justice and Home Affairs Matters for the construction of an EU Register of convictions link with each national Judicial register. Such a register would be very useful for sentencing information.

There are also several existing EU instruments such as those relating to European Arrest Warrant, Joint investigation teams, moneylaundering, cash movement, asset restraint and seizure and trafficking in human beings, exchange of information on convictions of Non Nationals, Terrorism information exchange. In addition there are several more at draft stage for final negotiation or implementation, for particular example the European Evidence Warrant Framework Decision proposal. The challenge is more intensive use of these instruments and by Prosecution/Police and Judicial national authorities.

4. Any other comments.

The provisional arrest provisions contained in UK law have been used a number of times and have been very successful. These provisions enable the UK authorities to arrest a suspect without an EAW if they are advised that an EAW is to be issued. The EAW must then be issued and transmitted to the UK within 48 hours.