



Council of the European Union
General Secretariat

Brussels, 08 April 2020

WK 3472/2020 REV 1

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WORKING PAPER

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WORKING DOCUMENT

From: General Secretariat of the Council
To: Delegations

Subject: The impact of COVID-19 on judicial cooperation in criminal matters
- Updated compilation by Eurojust and by the European Judicial Network in criminal matters (EJN)

Delegations will find attached an updated compilation by Eurojust and by the EJN, combining information received by Eurojust, by the EJN, and by the Presidency/General Secretariat of the Council, on the impact of the measures taken by governments to combat the spread of COVID-19 on judicial cooperation in criminal matters in the European Union (and Iceland and Norway).

The text has been updated with comments received by 7 April 2020.



The Impact of COVID-19 on Judicial Cooperation in Criminal Matters

Compilation of Replies

07 April 2020

2020/CWU-OPD/0325/SM/OF

The present document is a living document and it is regularly updated.
It is not meant to reflect any official position of the Member States, Iceland and Norway.

Table of Contents

I.	Background	3
II.	Questionnaires	4
II.I.	EUROJUST Questionnaire	4
II.II.	COUNCIL Questionnaire.....	4
II.III.	EJN Questionnaire	4
III.	Overview of replies.....	6
III.I.	Austria (AT).....	6
III.II.	Belgium (BE)	8
III.III.	Bulgaria (BG).....	10
III.IV.	Croatia (HR)	13
III.V.	Cyprus (CY).....	16
III.VI.	Czech Republic (CZ)	17
III.VII.	Denmark (DK).....	19
III.VIII.	Estonia (EE)	20
III.IX.	Finland (FI).....	22
III.X.	France (FR).....	25
III.XI.	Germany (DE).....	29
III.XII.	Greece (EL)	32
III.XIII.	Hungary (HU).....	33
III.XIV.	Ireland (IE).....	35
III.XV.	Italy (IT).....	36
III.XVI.	Latvia (LV)	40
III.XVII.	Lithuania (LT).....	41
III.XVIII.	Luxembourg (LU)	42
III.XIX.	Malta (MT)	44
III.XX.	Netherlands (NL)	45
III.XXI.	Poland (PL)	49
III.XXII.	Portugal (PT)	51
III.XXIII.	Romania (RO)	52
III.XXIV.	Slovak Republic (SK)	56
III.XXV.	Slovenia (SI).....	58
III.XXVI.	Spain (ES)	61



III.XXVII. Sweden (SE)	68
III.XXVIII. Iceland (IS)	70
III.XXIX. Norway (NO)	71

I. Background

In order to combat the spread of the coronavirus (COVID-19), several countries have taken measures that may have an impact on the application of some judicial cooperation instruments, and in particular on the surrender procedure under Framework Decision 2002/584/JHA on the European Arrest Warrant and the surrender procedures between the Member States ('EAW FD').

In order to make an inventory of these measures and share the information and experiences among the Member States, the national authorities were invited to reply to **three questionnaires**, launched respectively by:

1. the Romanian National Desk at Eurojust, addressed only to 5 National Desks (BE, DE, ES, FR, IT) ("**Eurojust questionnaire**");
2. the Council, addressed to all Member States, Iceland and Norway (given their cooperation with EU Member States under the 2006 EU-IS-NO Surrender agreement), and published as Council document no. WK 3047/2020, revised as WK 3047/2020 REV1 and WK 3047/2020 REV2 ("**Council questionnaire**");
3. the European Judicial Network, addressed to all Member States ("**EJN Questionnaire**").

The present document gives a complete overview of the different questions asked in the three questionnaires and **compiles all the replies provided by the Member States, Iceland and Norway, together with other information spontaneously exchanged by the National Desks and Liaison Prosecutors at Eurojust ("NDs"), also in relation to other third countries.** This should allow NDs and EJN Secretariat to have all available information at hand so that they can assist practitioners in the Member States dealing with urgent requests in this special situation.

For the above reasons, **the replies are not organised strictly per source, but rather per country and per topic, and provided in a reversed chronological order** (from most recent to oldest). In particular, the replies are grouped into those specifically relevant for European arrest warrants ("EAW"), those concerning other judicial cooperation instruments ("JCI") - including the European investigation order and Framework Decision 2008/909/JHA on the transfer of prisoners - or of general relevance, and finally those regarding channels for information exchange. The source is nevertheless indicated for the ease of reference (in **blue** colour font, corresponding with the number/letter format used for each questionnaire, see pages 4-5). Useful contact details are also included, where available. For purposes of clarity, the descriptive part of given replies that do not provide any substantive information are not reproduced in the present document.

Eurojust and the EJN continuously keep the possibility of any future update open. **Any comments and/or suggestions for a future update can be sent to Eurojust (TeamJudicialCooperationInstruments@eurojust.europa.eu and operations@eurojust.europa.eu) and the EJN (ejn@eurojust.europa.eu).**

II. Questionnaires

II.I. EUROJUST Questionnaire

1. Which would be the position of your home authorities (“HAs”) on taking over the arrested persons for which the EAW was approved by the RO authorities?
2. Which are the views of your HAs on future EAWs not yet transmitted or inserted in SIS? Could any prioritisation be put in place when transmitting /inserting them?

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3. Spontaneous information exchanged between National Desks and Liaison Prosecutors at Eurojust

II.II. COUNCIL Questionnaire

The replies to the following question have been published in Council document no. WK 3047/2020 of 18 March 2020, and in Council document no. WK 3047/2020 REV1 of 20 March 2020.

Questions to Member States as executing State:

- a) Have you decided to temporary suspend the execution of EAW’s? If so, in respect of which Member States? On which legal basis do you temporarily suspend surrender (Article 23 FD EAW, force majeure)? For how long do you expect this measure be in place?
- b) Have persons that were already remanded in custody been released temporarily or otherwise as a consequence of this measure?
- c) If you have decided to continue the execution of EAW’s, which particular measures (precautions) have you taken, e.g. relating to health? Please explain. In respect of which Member States have these measures (precautions) been taken?

Questions to Member States as issuing State:

- d) Have you decided to temporary suspend the issuing of EAW’s or to withdraw already issued EAWs? If so, in respect of which Member States? For how long do you expect this measure to be in place?

Other questions:

- e) Do the measures relating to COVID-19 also have an impact on other judicial cooperation instruments, such as EIO (2014/41) and Transfer of Prisoners (2008/909)? Please explain.
- f) In order to ensure swift exchange of information between Member States in emergency situations, what do consider to be the best channels to use (e.g. Eurojust/EJN, SIS Sirene, national focal points / other)?

II.III. EJN Questionnaire


- i. In connection with the current situation concerning coronavirus COVID-19, have your responsible authorities implemented any measures in connection to the transits of the persons on the basis of the legal instruments in the area of judicial cooperation in criminal matters (such as European Arrest Warrant-EAW, International Arrest Warrant-IAW, custodial sentences)?

- ii.** As regard the surrender EAW cases, have you applied or considered to apply Article 23 para 4 of the EAW FD?
- iii.** Any other relevant information
- iv.** What is your interpretation of the notion “prevented by circumstances beyond the control of any of the Member States” in Article 23 (3)?
- v.** Are surrenders of persons under EAW FD possible? If yes, is a negative Covid-19-test of the surrendered person needed? Is a negative Covid-19-test of the escorting officers needed? Test not older than how many days? Are there other requirements?
- vi.** Are transits of persons under FD EAW possible? If yes, is a negative Covid-19-test of the surrendered person needed? Is a negative Covid-19-test of the escorting officers needed? Test not older than how many days? Are there other requirements?
- vii.** Are transfers of prisoners under FD 2008/909/JHA possible? If yes, is a negative Covid-19-test of the surrendered person needed? Is a negative Covid-19-test of the escorting officers needed? Test not older than how many days? Are there other requirements?
- viii.** Are EIO and other MLA requests executed only in emergency cases? How should the EIO/requests be sent, by ordinary mail or email? Should they be sent to the ordinary addresses indicated in the EJN-Atlas? Or should they be sent to a central authority/other? In this case, to which address or email address?

III. Overview of replies

III.I. Austria (AT)


[Return to questions](#)

AUSTRIA 	
EAW	<p>a) The decision on the execution of the EAW lies in the competence of the Courts upon request of the Public Prosecutors– in the light of the dangers of spreading Covid-19 in the penitentiaries the Public Prosecutor’s Offices were requested to reassess the grounds for detention pending surrender. With regard to actual surrender of the persons Austrian Courts have started to apply Art 23 FD EAW due to the extraordinary situation. Surrenders by airplane have been stopped as most of the airlines have suspended their services. Surrender by land is depending on the cooperation and precautions of the neighbouring states. Austria urgently calls for a union-wide application of Art 23 during these Covid-19-related restrictions. As long as the public health restriction will remain necessary also this temporary suspension will have to be applied. <i>[20.03.2020 – Council document no. WK 3047/2020 REV1]</i></p> <p>b) There were singular cases of that kind as a consequence of the above-mentioned reassessment. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>c) Transit permissions are not given at the moment. Surrenders of persons to Austria are only possible if the person concerned has a medical certificate not older than four days showing a negative Covid-19-test. If the escorting officers come to Austrian territory this requirement also applies to them. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>d) As a consequence of the above-mentioned reassessment of the grounds for pre-trial detention also in domestic cases the number of issued EAW may be reduced. As long as the public health restriction will remain necessary also this temporary suspension will have to be applied. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>ii) With regard to EAW cases the Austrian Courts are already applying Art 23 para 4 of the FD - in cases of lack of flights or missing medical certificates. <i>[13.03.2020 – EJN questionnaire]</i></p> <p>iv) The current situation is force majeure and therefore would be beyond the control of the Member States. This does not mean however that we should not seek to execute surrenders if there is a way. Surrender by air is almost impossible due to stopped flights and surrender by land is denied by a majority of Member States until further notice. The Ministry of Justice issued yesterday (19 March) a circular letter informing our judicial authorities about the factual situation concerning surrenders invoking them to consider applying Art 23 (3) of the EAW FD.</p>

	<i>[20.03.2020 – EJN questionnaire]</i>
Other JCI / general comments	<p>viii) EIO and other MLA requests are executed only in emergency cases. Due to restrictions in the available staff at the executing Prosecutor’s Offices and Courts urgent cases will be prioritised. EIO/requests should be sent by email. (...) <i>[06.04.2020 – EJN questionnaire]</i></p> <p>e) Austria has temporarily suspended the surrender of all persons under the FD 2008/909/JHA invoking Art 15 para 2 of this FD. With regard to the execution of EIO restrictions in available staff at the executing authorities may lead to focus on urgent cases. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>i) In cases of transit of persons through the territory of Austria - including Vienna International Airport - we request a medical certificate not older than four days confirming that the transiting person as well as the escorting officers have been tested negative of the COVID-19-virus. The same applies to surrender of persons to Austria no matter on which legal ground (EAW, Extradition, Temporary Surrender or Surrender for Enforcement of a Custodial Sentence...). <i>[13.03.2020 – EJN questionnaire]</i></p>
Recommended channels for information exchange	<p>viii) EIO/requests should be sent by email. The decentralised email addresses of the Austrian executing authorities are not included in the Atlas but will be provided to all CPs of the EJN for the use of judicial authorities only. Link to the email addresses are also provided here (password protected) They should not be sent to a central authority. Only if a decentral mail address is not working or available the competent office of the Federal Ministry of Justice can be reached under team.s@bmj.gv.at. <i>[06.04.2020 – EJN questionnaire]</i></p> <p>f) EJN has already proofed to be an excellent channel of communication for judicial authorities with regard to consequences of Covid-19 measures both in singular cases and in general. Further exchange of information happens – as always in EAW cases – through SIRENE and Interpol. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>

III.II. Belgium (BE)


[Return to questions](#)

BELGIUM 	
EAW	<p>a) Yes. The execution of some ongoing EAW's has already been suspended on the basis of Art. 23 par. 4 of the Framework Decision, provisionally until the end of March 2020. Generally speaking, priority will be given to the execution of EAW's that concern urgent and/or serious offences and taking into account the limited capacity of police and security services, in consultation with the issuing authority. Only the effective surrender may be considered to be suspended, meaning that the execution procedure itself (hearing of the person, decision on the execution, etc) could in principle be handled normally. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>b) Not until now. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>c) General precautionary measures have been established inside the prisons. Particular precautionary measures have also been taken by the police services in charge of the concerned person, in consultation with the issuing authorities. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>d) Some decisions to temporarily suspend the issuing of EAW's have been taken so far on a case-by-case basis. It appears that they concern primarily the issuing of EAW's for the purpose of executing a final sentence except if the latter concern serious offences or where there is a clear evidence that the concerned person is a fugitive. National prosecutors will be asked through general instructions to put on hold non priority execution cases and to wait before introducing them in the SIS system. This will not include serious cases, including cases of murder, sexual assault, terrorism, kidnapping, crimes with strong violence, violence against children or special high level crimes due to COVID-19. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>
Other JCI / general comments	<p>e) EIO/MLA: priority will be given to urgent and serious cases. Direct contacts between competent authorities will be used for this purpose. Transfer of prisoners: only transfers are suspended and postponed so far. Incoming and outgoing requests could in principle be handled normally. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>iii) (...) due to COVID-19 in Belgium the Courts and Public Prosecutor Offices will act limited. Most judges and prosecutors will work from home. There will be prosecutors and judges on duty 24/7. All urgent MLA 's including EIO's and EAW will be handled in the best possible way taken in account reduced capacity at LEA and day by day changing sanitarian prescriptions. This could last until the 4 th of April if not extended or stopped earlier. In order to make sure the requests will get to the competent authorities we advise a maximum of direct contact between issuing and executing judicial authority. (...)</p>

	[16.03.2020 – EJN questionnaire]
<p><i>Recommended channels for information exchange</i></p>	<p>f) General instructions remain applicable. Direct contacts between competent authorities are prioritized. If not possible or in case of urgency, the national focal point (Office of the Federal Public Prosecutor) is available 24/7. The national desk at Eurojust should be involved as far as possible in order to ensure proper coordination with other MS. EJN contact points should also be used complementarily to exchange practical information and best practices. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>iii) (...) At the federal prosecutors office in Belgium we will handle all urgent and non-localisable requests and we have therefore a SPOC (office hours 08- 17hrs) : Secretariat.international@just.fgov.be + 32 2 557 77 39 Federal Magistrates to contact : Thomas Lamiroy National EJN-CP thomas.lamiroy@just.fgov.be +32 485 54 97 74 Luc De Houwer : luc.dehouwer@just.fgov.be +32 485 54 47 14 In Belgium every PPO including the FPO has a 24/7 on call duty – Those PP’s can be contacted by the FEDERAL POLICE (...) [16.03.2020 – EJN questionnaire]</p>

III.III. Bulgaria (BG)

[Return to questions](#)

BULGARIA 	
EAW	<p>v) Surrenders are not possible, they are postponed until the end of the extraordinary situation ordered by Bulgarian national assembly – pandemic covid -19. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>vi) We do not have recent cases of requests for transit but the restrictions mentioned above for surrenders are valid. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>3) (...) update about the Bulgarian practice on surrendering of criminals in the execution of granted EAW. First step: after receiving the court decision on the surrender the Supreme Cassation PO has prolonged the factual surrender with 20 days on the bases of Article 54 para 1 and 2 of the Bulgarian LAW on EAW. This provision is corresponding to Article 23 of the FD on EAW. In summary the court can postpone the factual surrender when: -there are force majeure situation or/and - the life and health of the wanted person are endangered when surrendering them. Second step: within those 20 days SIRENE-Sofia has informed the relevant SIRENE in the issuing MS and ask for its opining to temporarily postpone the factual surrender. Third step: if the issuing MS agrees with the extension proposed the relevant District PO has requested the relevant District court to prolong the factual surrender until the end of the state of emergency. Fourth step: after obtaining the court decision on extension until the end of the state of emergency on the legal bases of Article 54 point 3 of the LAW on EAW in relation to Article 23 point 3 of the FD on EAW the wanted person is staying in the detention centre without releasing him/her until the factual surrender. <i>[31.03.2020 – Exchange of information among NDs at Eurojust]</i></p> <p>a) The execution of the EAW has not been suspended so far. The Supreme Prosecutor’s Office of Cassation of the Republic of Bulgaria makes a great effort to agree with the issuing State on extension of the surrender period when due to objective reasons (travel restrictions, cancelled flights, high epidemiologic risk etc.) the surrender cannot take place within ten days after the entry into force of the decision of the competent Bulgarian court. The extension is based on Art. 23(3) of the EAW Framework Decision. We expect that this measure will be applied at least until 13 April (the end of the declared on 13 March 2020 state of emergency in the Republic of Bulgaria). <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>b) There is no information that a Bulgarian court has released any person remanded in custody following an EAW when the surrender has been postponed as a follow-up of the COVID-19 outbreak.</p>

	<p><i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>c) When carrying out procedures on EAW or transfers of sentenced persons the officials at the Chief Directorate “Security” to the Ministry of Justice are provided with protective equipment (masks, gloves and disinfectants). Protective equipment is also available to the detained persons. Additionally, they all get acquainted with the safety measures against the dissemination of the virus.</p> <p><i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>d) The issuing of EAWs has not been suspended and no issued EAW has been withdrawn due to the COVID-19 outbreak. As indicated in the answer to question “a”, the Prosecutor’s Office is looking for mechanisms to guarantee that the execution of the EAW will take utmost account of the epidemiologic environment. In practice, the Bulgarian authorities request the surrenders following an issued EAW to be postponed at least until 13 April when the declared national state of emergency ends. This measure concerns EAW proceedings with Member States where high epidemiologic risk exists as indicated by the Minister of Health. With other Member States the Bulgarian authorities request only an extension of the surrender period due to the limitations implemented as a follow-up of the COVID-19 outbreak.</p> <p><i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>
<p><i>Other JCI / general comments</i></p>	<p>vii) Transfers of prisoners are not possible because of the restriction of pandemic of covid -19 no matter of negative test for the surrendered person. In every single case there is a court decision to postponed the surrender of person under EAW. But for now we don’t have cases under FD 2008/909/JHA because the law entered in force from the 1-st of January 2020 and in practice we just started few cases by this procedure.</p> <p><i>[01.04.2020 – EJN questionnaire]</i></p> <p>viii) EIO must be sent by email, we do not execute EIO for ordinary cases till the end of the extraordinary situation announced by Bulgarian authorities –covid -19. For serious urgent cases - a single decision is made by a concrete issues and by the competent prosecutor, responsible for the execution. But for sure before that we recommended to have consultations with him /her by phone or email for possible solutions. It is not necessary to send the EIO to the central authority, it is always better to send directly to the competent District prosecution office responsible for the execution.</p> <p><i>[01.04.2020 – EJN questionnaire]</i></p> <p>3) (...) you could expect some delays in the execution of all European Investigation Orders due to the crisis with COVID-19, the state of emergency in Bulgaria and limited judicial and police resources.</p> <p>In addition, Bulgaria is not going not participate in common Actin Days with other countries.</p> <p>All above measures are applicable until the end of the state of emergency which is 13 April with an option to be prolonged. (...)</p> <p><i>[25.03.2020 – Exchange of information among NDs at Eurojust]</i></p>

	<p>e) According to our experience the COVID-19 outbreak does not have any specific impact on the application of the EIO besides the decreased work intensity of the relevant authorities.</p> <p>The transfer of convicted persons is directly affected by the spread of the disease due to the need of surrender of the persons. In several cases the Supreme Prosecutor's Office of Cassation had to cancel plans for surrender that were already approved and to negotiate new ones due to the quickly changing situation. The other Member State has been notified that a confirmation for a new specific plan would be possible only after the alleviation of the epidemiologic environment.</p> <p><i>[20.03.2020- Council document no. WK 3047/2020 REV1]</i></p>
<p>Recommended channels for information exchange</p>	<p>f) The experience of the Supreme Prosecutor's Office of Cassation shows that the fastest and most effective channel for exchange of information between the Member States is ensured by SIS operated by MS SIRENE bureaus.</p> <p><i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>

III.IV. Croatia (HR)

[Return to questions](#)


CROATIA	
EAW	<p>v) Generally speaking, all surrenders (esp. by air) are currently suspended. However, a different decision is possible in exceptional cases. So far, we didn't have any such cases. There is no special protocol in place for those cases, but we do have an epidemiologist on call, which can perform testing for COVID-19 if necessary. Due to a heavy workload for our epidemiologists, we have been asked to refer to them only if absolutely necessary. <i>[06.04.2020 - EJN questionnaire]</i></p> <p>vi) Transits are not possible. <i>[06.04.2020 - EJN questionnaire]</i></p> <p>a) We would like to emphasize that the execution of the EAWs will not be suspended, only the surrender of the requested person shall be postponed. Namely, in line with recommendations of the Civil Protection Headquarters and further to the arrangement with the Prison System Directorate of the Ministry of Justice, the Ministry of Interior has postponed surrender, extradition and transfer of persons to and from the Republic of Croatia. Further to the above, after issuing a decision on surrender of a person, the courts temporarily postpone the surrender of the requested person for serious humanitarian reasons (Article 35, par 3 of the Act on Judicial Co-Operation in Criminal Matters with Member States of the European Union – in line with article 23 FD EAW). <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>b) Until now, there was no such case. The Courts render decisions taking into account the circumstances of the concrete case and impose the measure that shall secure the presence of the requested person during the procedure of the execution of the EAWs. <i>[20.03.2020- Council document no. WK 3047/2020 REV1]</i></p> <p>c) See answer on point a). Furthermore, the recommendations of the Civil Protection Headquarters are being applied by the Ministry of Justice. Therefore, Prison System Directorate of the Ministry of Justice applies all rendered measures relating to the health of prisoners and detained persons. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>d) The competent judicial authorities for issuing the EAW (Courts and Public Prosecutor's Offices) are issuing the EAWs in all cases where the legal preconditions have been fulfilled. According to our law there is no possibility to temporarily suspend the issuing of EAWs. The EAWs are still being inserted in the SIS (alert) for the purpose of searching of the requested person. Please note that in most of the cases the whereabouts of the requested persons are unknown at the moment of the issuance of the EAW. The issuance of the EAW must be distinguished from the surrender of requested persons after the finalization of the surrender procedure in the concrete MS. As already mentioned in answer to point a) the</p>

	<p>Ministry of Interior has postponed the taking over of the requested person who has been arrested and detained in the executing MS and whose surrender has been granted. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>
<p><i>Other JCI / general comments</i></p>	<p>vii) Transfers of prisoners are not possible. <i>[06.04.2020 – EJN questionnaire]</i></p> <p>viii) EIOs and other MLA requests are executed only in urgent cases. Please note that most of the EIOs are considered as urgent cases as they are usually issued during the investigation. <i>[06.04.2020 – EJN questionnaire]</i></p> <p>e) Given the nature of the instrument, the EIOs are being handled without delay. With regards to the Transfer of Prisoners see answer to the point a). <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>iii) (...) Extraordinary precautionary measures shall apply to judges and prosecutors in the Republic of Croatia. Most judges and prosecutors will work from home. The urgent investigative measures shall be conducted. So, all urgent MLA 's including EIO's and EAW will be handled. These extraordinary measures will last until the April 1 2020. (...) Please note that the surrenders of requested persons /transfers of sentenced persons shall be executed /postponed taking into account the specific circumstances of the concrete case. The details of the surrender shall be agreed between the SIRENE Offices of the involved countries. <i>[16.03.2020 – EJN questionnaire]</i></p> <p>i) Croatian authorities have not implemented any additional measures in connection to the surrender /transfer of the requested persons/sentenced persons from Italy /other affected countries to Croatia. (...) In other words, regarding the cases of surrender and cases of transfer of the requested person/sentenced person where the final decision has been brought and surrender has to agreed the following provisions are relevant:</p> <ul style="list-style-type: none"> • The Article 15 para 2 of the Framework decision 2008/909/JHA (...) • The Article 23 para 3 and 4 of the Framework Decision 2002/584/JHA (...) <p>Furthermore, the case law of the ECJ (Case C-640/15) has defined the “circumstances beyond the control” as “ exceptional circumstances, that resistance could not have been foreseen by those authorities and could not have been avoided in spite of the exercise of all due care by those authorities”. (...) Subsequently, the surrender of the requested person can be postponed on the basis of the Article 23 para 4 of the Framework Decision (“serious humanitarian reasons”). While the transfer of the sentenced persons can be postponed due to the unforeseen circumstances, until the circumstances cease to exist. Furthermore, mentioned Framework Decisions respect fundamental rights and observe the principles recognized by Article 6 of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union. So, the Frameworks respect the provision of the Article 35 Charter of Fundamental Rights of the European Union which reads as follows:</p>

	<p>“Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.”</p> <p>In other words, MS of the EU are obliged to ensure a high level of human health protection In concrete situation the transfer/surrender of the persons that are detained /serve the sentence in Italy could endangered high level of human health protection in other MS of EU. So, mentioned provisions could be interpreted in the following manner: the transfer of the sentenced person/surrender of the requested person from Italy /affected countries could be against Article 35 Charter of Fundamental Rights of the European Union.</p> <p>Regarding the transfer of the sentenced persons /extradition from the Third countries these procedures can be postponed under the same conditions .Namely, similar provisions as above mentioned are proscribed by the Council of Europe Conventions:</p> <p>Article 18 para 5 of the European convention on extradition reads as follows:” If circumstances beyond its control prevent a Party from surrendering or taking over the person to be extradited, it shall notify the other Party. The two Parties shall agree a new date for surrender and the provisions of paragraph 4 of this article shall apply.”</p> <p>It is to emphasize that the procedure of the transfer of the sentenced persons from affected countries should not be initiated during the current situation concerning coronavirus COVID-19.</p> <p><i>[11.03.2020 – EJN questionnaire]</i></p>
<p><i>Recommended channels for information exchange</i></p>	<p>viii) EIOs and MLA requests should be sent by e-mail to the addresses in the EJN Atlas, and ordinary mail should be used in the exceptional cases (transfer of the proceedings and service of documents). To the central authority in the MLA cases (service of documents and transfer of the proceedings).</p> <p>The EIO should be sent to the competent county state attorney’s office. To the e-mail addresses specified in the EJN Atlas and to the following e-mail addresses: Danka.Hrzina@dorh.hr and Bojan.Ernjakovic@pravosudje.hr.</p> <p><i>[06.04.2020 – EJN questionnaire]</i></p> <p>f) In urgent cases / situations it is highly recommended to use Eurojust, EJN and SIS Sirene channels.</p> <p><i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>iii) In order to minimize delays in the execution of the instruments of the judicial cooperation we encourage issuing /executing authorities to send it electronically to the following electronic addresses: Danka.Hrzina@dorh.hr and Bojan.Ernjakovic@pravosudje.hr</p> <p><i>[16.03.2020 – EJN questionnaire]</i></p>

III.V. Cyprus (CY)

[Return to questions](#)

CYPRUS 	
<i>EAW</i>	N/A
<i>Other JCI / general comments</i>	N/A
<i>Recommended channels for information exchange</i>	N/A

III.VI. Czech Republic (CZ)


[Return to questions](#)

CZECH REPUBLIC	
EAW	<p>v) Surrenders are possible and a negative Covid 19 test is not required. It is expected, that the subject spent at least 14 days in detention, so in controlled and COVID 19 free environment. The subject of the surrender has to be medically checked for any infectious illness including COVID 19. Before execution of surrender, the person is checked and the temperature is measured. In case of any suspicion for respiratory disease, the surrender is postponed. The escort members must be well. Wearing of mouth and nose protection is required. The hand over should be done in fast manner with minimum contact between escorts – only one member (leader of escort) of escorts team meets each other, sign one copy of handover document, handover persons belongings and person is then handed over from car to car. Disposal handcuffs are used to avoid need to change the handcuffs. The handover takes place on open space outside PCCC, contact with PCCC personnel shall be avoided. <i>[07.04.2020 – EJN questionnaire]</i></p> <p>vi) Transits are not possible, realization and permission of transits is temporarily suspended. <i>[07.04.2020 – EJN questionnaire]</i></p> <p>a) No. The courts are competent to decide on the execution of EAWs. We are of the opinion that the situation caused by the COVID-19 can be assessed as force majeure according to Article 23 FD EAW. At the moment surrender by airplane is in general excluded, further consequence is the obligatory quarantine for the escorting police officers returning from the affected countries. Surrender by land depends on the cooperation and precautions of the neighbouring states which make impossible to observe the 10-day time limit for surrender. The Czech Republic supports a union-wide application of Art 23 during the COVID-19-related restrictions. <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p> <p>b) Not yet. MoJ is not aware of such cases. (However, this may be the case in future. The courts will always assess the circumstances of the particular case in the event of such a decision.) <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p> <p>c) No particular measures concerning EAWs, general health and restricting measures. <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p> <p>d) No, not yet. <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p> <p>iv) The current situation is force majeure and therefore would be beyond the control of the Member States. This does not mean however that we should not seek to execute surrenders if there is a way.</p>

	<p>Even if we consider this situation as force majeure, our authorities should try to find the way how to execute surrender when and while it is still practically possible in each particular case. <i>[20.03.2020 – EJN questionnaire]</i></p>
<p><i>Other JCI / general comments</i></p>	<p>e) Ad EIO and MLA: The execution of the EIOs and MLAs may be delayed namely in cases where it is necessary to ensure the physical presence of the person during the execution of requested measure (for example hearing, videoconference etc.). Execution will depend on circumstances of the case, urgency or the matter, availability of the staff - priority will be given to urgent and serious cases. When issuing the EIO (MLA request), the judicial authority should always take into account the necessity of the required measure in the light of the current crisis situation. Ad FWD 2008/909/JHA: CZ has temporarily suspended the surrender of all persons under the FD 2008/909/JHA. <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p>
<p><i>Recommended channels for information exchange</i></p>	<p>viii) EIO and MLA requests should be sent preferably via email to the ordinary addresses of the competent authorities, as the postal services are limited at present as regards the international service. When needed, it is possible to urge the execution of the EIO via the EJN contact points or Eurojust in the serious and urgent cases. <i>[07.04.2020 – EJN questionnaire]</i></p> <p>f) Direct contacts between competent authorities are prioritized. The national desk at Eurojust should be involved by the judicial authorities in urgent cases. The EJN contact points should also be used complementarily as usual. SIS Sirene – for operational cooperation. <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p>

III.VII. Denmark (DK)

[Return to questions](#)

DENMARK 	
EAW	<p>a) No, Denmark has not decided to temporary suspend the execution of EAW's. However, please note, that depending on the development of the situation, measures may be taken concerning the execution of EAW's. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>b) As far as the Director of Public Prosecutions (as Central authority) has been informed, no persons that were already remanded in custody, have been released temporarily or otherwise as a consequence of this measure. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>c) Regarding the execution of EAW's the Danish authorities have not yet taken particular measures – However, we will assess the individual situations, case by case, in regards of which precautions to take. Also, the Danish administration has taken several restricting measures, such as temporarily border control. However, at this point of time, the taken measures do not affect the execution of EAW's. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>d) No, Denmark has not decided to temporary suspend the issuing of EAW's - nor to withdraw already issued EAWs. [20.03.2020 Council document no. WK 3047/2020 REV1]</p> <p>iv) Denmark would seek to execute the surrender, and if not possible within the time limit due to the current situation, we would consider EAW FD Article 23 (3) applicable. [20.03.2020 – EJN questionnaire]</p>
Other JCI / general comments	<p>e) We will assess the individual situations, case by case, in regards of which precautions to take. The Danish Ministry of Justice considers some measures relating to COVID-19 as unforeseen circumstances in relation to article 15(2) in FD 2008/909. The 30 day deadline in article 15(1) therefore might not be achievable at the present moment. Transfer shall take place as soon as these circumstances cease to exist. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>
Recommended channels for information exchange	<p>f) The Danish Director of Public Prosecutions considers, that the best channel to use is SIS Sirene. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>

III.VIII. Estonia (EE)


[Return to questions](#)

ESTONIA	
EAW	<p>v) Due to the spread of COVID-19, the Government of Estonia has declared the state of emergency until 1.05.2020. Therefore, the actual hand over of surrendered persons will be possible after 1.05.2020. At the moment the rule concerning police cooperation regarding surrender of the persons based on EAW, is that until 1st of May all actual hand over of persons are postponed, especially if it is not an urgent matter. Nevertheless, Estonian police evaluate the need to go after the surrendered person before 1.05.2020 on case by case basis. (...) A negative Covid-19-test is needed for both the surrendered person and the escorting officers of the requesting state if they come to Estonia after the surrendered person. [01.04.2020 – EJN questionnaire]</p> <p>vi) Transits through Estonia under the FD EAW are theoretically possible. In order to make a decision whether to grant the transit through Estonia or not, Estonia requires the COVID-19 tests to be made to the surrendered person and also to the escorting officers. [01.04.2020 – EJN questionnaire]</p> <p>a) In Estonia declared the state of emergency until 1.05.2020. The Courts continue to work on partly reorganized way and using more e-solutions. Estonia continues to execute the EAW's. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>b) The persons already remanded in custody for surrender will kept under custody until it is possible to remove them by the requesting State and most likely due to the state of emergency after 1.05.2020. The date for actual surrender will be negotiated via Sirene channels and will be agreed case by case. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>c) Persons taken to the detention facility are kept in quarantine for 14 days. The transfer of the person by the requesting State is not possible before 1.05.2020. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>d) Estonia does not cancel any of the issued EAW's. As the Court and prosecution offices will continue working as normally as possible using more e-solutions they also will issue EAW's, but probably not in amount of normal situation. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>iv) <i>The current situation is force majeure and therefore would be beyond the control of the Member States. This does not mean however that we should not seek to execute surrenders if there is a way.</i> The notion "prevented by circumstances beyond the control of any of the Member States" means exactly this kind of situation we never been faced with before and we should keep a common sense and prove that the mutual trust still exist. [20.03.2020 – EJN questionnaire]</p>

<p>Other JCI / general comments</p>	<p>vii) In the time of the state of emergency until 1.05.2020 Estonia will not accept transfers of prisoners from other countries in order to avoid an outbreak of the disease in our prisons. (...) <i>[01.04.2020 – EJN questionnaire]</i></p> <p>viii) The Prosecutor's Office will decide the execution of EIO's and MLA's on case by case basis. We continue to execute the EIO's that does not require direct contacts as timely as possible. Execution of requests that require direct contacts (search, hearing etc.) delayed and not executed before 01.05.2020. (...) EIO/requests should be sent by email to the ordinary addresses indicated in the EJN Atlas. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>e) The Prosecutor's Office will continue to execute the EIO's that does not require direct contacts as timely as possible. Execution of requests that require direct contacts (search, hearing etc.) are delayed. Procedure of the 2008/909 requests will continue as normal as possible up to the real hand over of the prisoner. The transfer is not possible before 1.05.2020. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>
<p>Recommended channels for information exchange</p>	<p>v - vii) Any questions related to the FD EAW and FD 2008/909/JHA please send to the Ministry of Justice – central.authority@just.ee. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>f) Questions related to the EIO's and freezing and confiscation please send to the Office of the Prosecutor General – info@prokuratuur.ee. Questions related to the EAW's and other mutual recognition instruments please send to the Ministry of Justice – central.authority@just.ee. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>

III.IX. Finland (FI)

[Return to questions](#)


FINLAND 	
EAW	<p>v) Surrenders are possible as, for the time being, there is still limited amount of flight connections available. Surrenders through land borders (Norway and Sweden) have been possible at least until now. Surrenders from Estonia to Finland are also possible as long as there will be a ship connection available. While a negative Covid-19-test is not needed, the surrendered person has to be “fit to fly” as well as the escort team members. No medical certificate is needed, but all the passengers are interviewed at the airport on arrival by health authorities. Immediate return would be the best option, but if not possible, the escort team has to stay at Helsinki airport hotel in self-imposed quarantine until the return flight. The national carrier Finnair is not taking any sick persons with symptoms on board. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>vi) Transit of persons under EAW FD are possible and a negative Covid-19-test is not needed. However, the requirements mentioned above concerning surrender are applicable. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>a) There have not been so far decisions to temporarily suspend the execution of EAWs. For the time being EAWs are executed but certain exceptions apply. Upon a hit in SIS art. 26 and following the remand in custody, the issuing Member State will be requested to confirm about their capability to pick-up the person after the decision is made. Decision to suspend a surrender is made on a case-by-case basis. However, should this time prove to be unproportioned, it has to be considered if the individual needs to be released or placed under a travel ban. So far, the need to suspend has not been longer than a week. According to the Coercive Measures Act, Chapter 2 section 6, keeping a person remanded in custody could become unreasonable, if the transfer of the person is delayed due to travel restrictions. Pick-ups are carried out but the constant uncertainty related to the overall situation as well as the borders being closed and the availability of flights are taken into account when assessing the pick-ups. FI has had cases where other Nordic countries have picked up surrendered persons by car. The prosecutors have been instructed to ensure from the issuing State if they will in any case uphold the EAW and if they can pick-up the person in question from Finland. If the issuing Member State upholds the EAW, the matter needs to be decided by a court. According to the Helsinki District Court, they handle surrender cases in a way that the person, who is requested to be surrendered, will be heard via video from the prison. The competence of the District Court ends to the decision to surrender. Nevertheless, the Court may delay the enforcement of a surrender decision if there exist circumstances that make the surrender unreasonable for humanitarian reasons. The surrender decision shall be enforced as soon as these circumstances have ceased to exist. The competent authorities shall then agree on a new surrender date. The requested person shall be handed over within ten days of the new date thus agreed.</p>

	<p><i>[20.03.2020 - Council document no. WK 3047/2020 REV1 - revised 01.04.2020 via EJN]</i></p> <p>b) So far no. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>c) According to the National Bureau of Investigation, all States are considered equal after the WHO declared the COVID-19 a pandemic. Decisions and measures related to the health of the surrendered person are considered to be the responsibility of the issuing State and hence the Member State picking-up the individual. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>d) It is considered that force majeure will be hindering us from executing the pick-ups. In such cases, the Member State surrendering the person will be requested for a temporary suspension until the exceptional conditions related to COVID-19 are lifted in respective to Member States so that the surrendered person can be picked up by the Finnish authorities. Consequently, it is the responsibility of the executing Member State to consider whether this time proves to be unproportioned, thus it has to be considered if the individual needs to be released or placed under a travel ban. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1 - revised 01.04.2020 via EJN]</i></p> <p>i) The current measures in Finland:</p> <ul style="list-style-type: none"> · issuing: The persons in custody in other states our NBI (National Bureau of Investigation) will if possible bring to Finland. · executing: executing prosecutors or NBI will contact the issuing authorities of the persons apprehended in Finland and make sure they wish the surrender proceedings to go on and to find out if it will be possible for them the come to pick the surrendered person up from Finland. <i>[13.03.2020 – EJN questionnaire + revised 01.04.2020]</i> <p>iv) The current situation is force majeure and therefore would be beyond the control of the Member States. This does not mean however that we should not seek to execute surrenders if there is a way. <i>[13.03.2020 – EJN questionnaire]</i></p>
<p>Other JCI / general comments</p>	<p>vii) Transfers of prisoners are not possible for the moment. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>viii) The execution of EIOs is not limited to urgent cases, but some delays may, however, occur. Helsinki district court is not able to execute video hearings at the moment. Sending requests by email is more convenient. You may also use when contacting police Interpol 24/7 or Europol Siena channel. If the case is important/urgent for you, you should remind police also by using telephone (number is available at EJN Atlas). Help can be asked from EJN, Eurojust or Europol Finnish desk. Ordinary mail does not suit for urgent cases because it is slow. It is not necessary to contact a central authority. <i>[01.04.2020 – EJN questionnaire]</i></p>

	<p>e) According to the Helsinki District Court (HDC), due to the limited resources for videoconferencing the HDC has to prioritize the usage of videoconferencing equipment for urgent cases. Therefore, the HDC is not able to execute European Investigation Orders for videoconferences to other Member States in the interval of 17.3. – 3.5.2020. Other district courts have not made such declarations so far. The judicial authorities of other EU Member States, issuing European Investigation Orders, are recommended to inquire from the competent judicial authorities in Finland, before issuing an EIO for videoconferencing, whether they are able to execute them. According to the Criminal Sanctions Agency (CSA) the transfers of prisoners is on hold for now. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1 – revised 01.04.2020 via EJN]</i></p>
<p><i>Recommended channels for information exchange</i></p>	<p>f) According to the Prosecution Authority, the best channels to use for prosecutors are Eurojust and EJN. The District court does not have such “separate” channels – thus far, the EJN-network seems best. According to the answers received from the National Bureau of Investigation, this might depend on the situation at hand, but at least in Finland, the Sirene-bureau is at service and in a position to reach all the relevant actors related to practical arrangements of the surrender procedures. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>

III.X. France (FR)

[Return to questions](#)

FRANCE 	
EAW	<p>v) Surrender of persons under the EAW FD are not possible as the National Transfer Service, in charge of carrying out surrenders in France, has suspended its activities. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>vi) Transits of persons under the EAW FD are possible subject to the travel limitations / UE external borders restrictions. A negative Covid-19-test is not needed. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>a) The national transfers service of the Ministry of Justice’s Prisons Administration Directorate, which is responsible for executing all international surrenders, has announced that these have been suspended for 15 days from 17 March 2020 to prevent the spread of the virus. In these circumstances, the public prosecutor’s offices have been invited, by way of a circular supplemented by a legal memorandum: - to limit the execution of warrants to those whose execution is urgent or imperative; - with regard specifically to European arrest warrants, in the light of force majeure, or for humanitarian reasons, to postpone surrenders and – in proportion to the severity of the charges and of the penalty provided for or imposed – to rule on continued detention during this period. An analysis of the case-law of the CJEU in its judgment of 25 January 2017 in case C 640/15 – (Tomas Vilkas) has led us to advise that such a solution may be extended as long as the situation which led to the delay continues, it therefore being possible for a new surrender date to be set and repeatedly rescheduled, pursuant to Article 23(3) or (4) of the Framework Decision on the European arrest warrant. The evolution of the epidemic could lead to additional measures being taken, particularly in terms of legislation. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>b) Releases have indeed been ordered owing to the impossibility of proceeding with the surrender within the time limits laid down for the execution of European arrest warrants. This is the case in situations where the judicial authority, finding that there is a case of force majeure preventing the surrender, and assessing the necessity and proportionality of the additional deprivation of liberty brought about by the deferred surrender, has held that the person concerned should be released pursuant to the transposition of Article 23 of the Framework Decision of 13 June 2002 on the European arrest warrant (see above). <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>c) No measures have been taken as surrenders are currently suspended. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>d) No action has been taken on suspending the issuing of European arrest warrants. The situation facing the courts, whose work has been significantly affected by the health crisis (introduction of business continuity plans, with judicial activities</p>

restricted to essential tasks and the handling of urgent cases), will, however, automatically limit the number of European arrest warrants issued and distributed. In addition, the surrender of persons subject to a European arrest warrant issued by the French authorities has been very significantly affected by the suspension in the national transfer service's work for a period of 15 days.

[20.03.2020 - Council document no. WK 3047/2020 REV1]

1) My MOJ issued general guidelines for continuing judicial activities and a part of them regard the EAW. Please find attached the guidelines about the EAW :

The surrender of a person subject to a European arrest warrant may be postponed on the grounds of force majeure according to the terms and conditions described below.

The provisions of article 695-37 of the code of criminal procedure, transposing article 23 paragraph 1 of the framework decision relating to the European arrest warrant⁷ provide that “the public prosecutor takes the necessary measures so that the person is surrendered to the judicial authority of the issuing State at the latest within ten days of the date of the final decision of the investigating chamber. [...] If the person sought cannot be surrendered within ten days for a case of force majeure⁸, the Attorney General immediately informs the judicial authority of the issuing State and agrees with it a new date of discount. The person sought is then surrendered at the latest within ten days of the new date thus agreed ”.

At the end of the time limits referred to [...], if the person sought is still in detention, he is, unless the first paragraph of article 695-39 applies, automatic release ”.

The case law of the CJEU provides that if the situation which has led to the postponement of the surrender on the grounds of force majeure must persist over time, a new surrender date may be fixed by the competent authorities. This same process can be repeated as long as the force majeure preventing surrender continues.

The public prosecutor's offices will, however, ensure the proportionality, in view of the gravity of the alleged acts and the penalty incurred or pronounced, of the duration of the provisional detention measure induced by the deferred surrender (s) on the grounds of force majeure. In addition, requests for the release of the persons concerned are possible at any time subject to the approval of article 695-34 of the Code of Criminal Procedure, before the Chamber of Investigation.

[16.03.2020 – Eurojust questionnaire]

ii) Difficulties in implementing the surrender within the 10 days delay provided with by article 23 of the EAW FD have been reported to the central authority, in particular in cases related to surrender with Italy. In those cases, our opinion was that the Covid-19 crisis and the barriers in the surrender process could be seen as circumstances preventing the surrender beyond control of the considered Member States, as provided by Article 23 para 3 of the EAW FD, and defined by the CJEU as “referring to abnormal and unforeseeable circumstances which were outside the control of the party by whom it is pleaded and the consequences of which could not have been avoided in spite of the exercise of all due care.” (see : CJEU, C640-15, Tomas Vilkas(...))

Based on this decision, it was also our opinion that it is possible, when the circumstances that led to a first delay of the surrender were still relevant, to agree on a new surrender date.

We have at this stage not been informed of the use of this possibility in a French surrender case related to the Covid-19 crisis.

	<p>Regarding Art 23 para 4 of the 2002 FD, it is our opinion that it could be relevant in a situation in which the person to be surrendered would be affected by the disease. We have not encountered such a situation so far. <i>[15.03.2020 – EJN questionnaire]</i></p> <p>iv) The situation regarding restriction of movement has reached such a level that it is impossible in France to consider an alternative to the postponement of all the surrenders. The penitentiary administration, in charge of all the prisoners transfer in France, including international surrenders, has decided a complete cessation of its activities, for a period of 15 days, which could be extended (and probably will). This is not only due to flight cancellations or border closures, but is directly a consequence of the policy of limitation of movements in order to reduce the spread of the virus. Therefore, agreeing with Romania, the circumstance covered by Article 23 (3) is, in the present situation, the pandemic itself. In France, the decision of postponing the surrender is taken by the prosecutor general. His decision is submitted to the control of the Court of Appel, if the arrested person submits a request for release. It is not yet possible to say how French courts of appeal will assess the situation and motivate their decision of accepting or rejecting the postponements based on Article 23 (3). <i>[20.03.2020 – EJN questionnaire]</i></p>
<p><i>Other JCI / general comments</i></p>	<p>vii) Transfer of prisoners are not possible due to the suspension of the activities of the National Transfer Service. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>viii) EIO and other MLA requests executed only in emergency cases. Urgent EIO/ requests should be sent by email and addresses should be obtained through the EJN CP. There is no centralization of EIO / requests. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>e) The measures relating to COVID-19 inevitably have an impact on the measures on the transfer of prisoners from one Member State to another. As there is no mandatory deadline for such transfer (following a decision on mutual recognition of judgments within the European Union), the surrender of persons in this context will be deferred until the situation has returned to normal. Similarly, these measures have an impact on temporary surrender measures provided for in the context of EAW procedures. In addition, business continuity plans set up in the courts in connection with restrictions on movement have led the latter to reduce their judicial activities dramatically, limiting these solely to essential litigation and to the processing of urgent cases. Such business continuity plans result in the courts being closed to the public, except for the handling of essential litigation. Although it is not possible here to specify the measures adopted, which depend on the content of the business continuity plans, which in turn depend on local contexts, we must expect a significant delay in the processing of European investigation orders. The investigation services that will be entrusted with their execution have had to reorganise themselves, too, and this will also have a significant impact on their MLA activities, which will inevitably be limited to the processing of urgent cases only. In addition, measures involving physical contact may be postponed, in view of the health measures that have been adopted. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>

	<p>i) (...), the French Ministry of Justice has taken measures regarding the way courts, prison facilities and other institutions depending from its administration will operate. The activity of justice will be limited to urgent matters, all the other cases will be postponed. Drastic restrictions have also been decided regarding internal transfer of detainees, the use of videoconference will be prioritized.</p> <p>No specific instructions were given so far regarding transfers at an international / European level. Nevertheless, this activity has already been considerably affected by the international transportation restrictions, closure of borders, necessity to preserve the staff in charge of implementing the transfers. As the situation is evolving rapidly, specific measures could be soon implemented.</p> <p><i>[15.03.2020 – EJN questionnaire]</i></p>
<p>Recommended channels for information exchange</p>	<p>f) The procedures relating to the European arrest warrant and the European investigation order require direct exchange, from one judicial authority to another. This dialogue will be all the more essential in view of the fact that the obstacles ahead will require consultation between the relevant judicial authorities. Contact could be facilitated through the various judicial cooperation networks: Eurojust, European Judicial Network, liaison magistrates, central authorities (in France, BEPI).</p> <p><i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>

III.XI. Germany (DE)

[Return to questions](#)


GERMANY	
EAW	<p>v) In principle, the surrender of persons is still possible. However, the feasibility of surrender depends on the legal and factual limitations that vary among the federal states in Germany. The possibility of surrender needs to be checked with the competent authority on a case-by case basis. Restrictions due to the Covid-19 pandemic are possible. There is no uniform regulation requiring a negative Covid-19-test. The Ministry of Justice and Consumer Protection has not yet been informed by the federal states that such a negative test is required. However, health tests will be performed in most states. [01.04.2020 – EJN questionnaire]</p> <p>vi) In principle, transits are still possible. However, the feasibility of surrender needs to be checked with the competent authority on a case-by case basis. Restrictions due to the Covid-19 pandemic are possible. As to the requirement of a negative Covid-19-test, see answer above concerning surrenders. [01.04.2020 – EJN questionnaire]</p> <p>a) Germany has not decided to temporarily suspend the execution of EAWs. Pressure on criminals should be kept up, further crimes should be prevented. If the transfer of a person is not possible due to restrictions in the issuing state, Art. 23 FD EAW provides for solutions adaptable to the individual case. If the proceedings are prolonged due to Covid-19-related restrictions of some sort, this will be taken into account when checking the proportionality of keeping the requested person in detention pending the surrender decision or the proportionality of keeping him or her arrested after the final decision on the execution of the EAW. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>b) The Federal government is not aware of any such cases so far. We encourage close cooperation and direct communication between Member States' authorities to ensure a smooth and effective functioning of judicial cooperation in criminal matters in times of Covid-19. If a restriction in the issuing State causes delays in the surrender of a person, the German national authorities will check the proportionality of keeping the person in detention, based on the facts of each individual case. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>c) EAW cases are covered by the general measures taken. For all persons detained in Germany medical care is provided. Measures to detect and prevent Covid-19 are in place. Persons carrying SARS-CoV 2 are separated from other prisoners. Transfer of prisoners from one prison to another are reduced to a minimum. Visits from persons coming from high risk regions in Germany or around the world are excluded. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>

	<p>d) Germany has not decided to temporarily suspend the issuing of EAWs or to withdraw already issued EAWs. The European cross-border pursuit of searched persons should be kept up. EAWs should be issued and inserted into SIS II as usual. As for now, German authorities are prepared to take over persons which have been searched via EAW. We recommend to contact the issuing authority for actual information before starting the transfer. If the situation changes, Germany will notify all MS via EJM, SIRENE and COPEN. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>1) As for now German authorities are prepared to take over persons which have been searched via EAW. If the situation changes Germany will notify all MS. [16.03.2020 – Eurojust questionnaire]</p> <p>2) A prioritisation should not be taken when issuing or inserting EAWs in order to keep up pressure on criminals and prevent further crimes. Nevertheless a proportionality check is advisable when the executing state decides whether to arrest the person during the proceedings. If a transfer of the person is not possible due to restrictions in the issuing state Art. 23 FD EAW provides for solutions. [16.03.2020 – Eurojust questionnaire]</p> <p>ii) This question was answered in respect of the practice of the competent court in Munich. Art. 23 § 4 EAW FD is applied. [12.03.2020 – EJM questionnaire]</p> <p>iv) The current situation is force majeure and therefore would be beyond the control of the Member States. This does not mean however that we should not seek to execute surrenders if there is a way. [20.03.2020 – EJM questionnaire]</p>
<p><i>Other JCI / general comments</i></p>	<p>vii) In principle, the transfer of prisoners is still possible. However, due to the Covid-19, transfers of prisoners are currently not prioritized and the feasibility needs to be checked on a case-by-case basis. As to the requirement of a negative Covid-19-test, see answer above concerning surrenders. [01.04.2020 – EJM questionnaire]</p> <p>viii) EIO and other MLA requests are not executed only in emergency cases, however due to the Covid-19 pandemic delays and restrictions are possible. The usual means of communication shall be used, such as those indicated in the EJM Atlas. It is not necessary to contact a central authority. [01.04.2020 – EJM questionnaire]</p> <p>e) So far, the measures relating to COVID-19 adopted by the German government should not have an impact on judicial cooperation instruments. Due to possible restrictions with respect to the availability of judicial and police authorities, requests may have to be prioritized. It is recommended to indicate if a request has for specific reasons high priority. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>iii) Because of the federal structure of Germany each Land decides on its own. In Bavaria no general emergency measures at courts and prosecutor’s offices have been taken yet (16.3.20 16:00 hrs). But things might change. [16.03.2020 – EJM questionnaire]</p>

<p><i>Recommended channels for information exchange</i></p>	<p>f) See answer to question d). <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>
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III.XII. Greece (EL)

[Return to questions](#)

GREECE 	
<i>EAW</i>	<p>iv) Greece fully applies "force majeure" in the meaning mentioned and duly explained by others. Our police officers are in constant contact with their counterparts trying to figure out the best way to proceed, in close cooperation with the Prosecutors. For the time being, no one has been released from prison and in some cases, when no flights are involved (i.e. Bulgaria), there have been a few surrenders.</p> <p><i>[20.03.2020 – EJN questionnaire]</i></p>
<i>Other JCI / general comments</i>	N/A
<i>Recommended channels for information exchange</i>	N/A

III.XIII. Hungary (HU)


[Return to questions](#)

HUNGARY 	
EAW	<p>v) (...) If no ground for refusal of the EAW is identified, arrested persons shall either remain under surrender arrest or under criminal supervision (which is basically a house arrest with electronic surveillance) to prevent the requested persons absconding. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>a) Due to security measures taken in connection with the COVID 19 pandemic, the execution of the European arrest warrants (EAW) can be ordered but the actual surrender of the requested person has to be postponed in respect of every Member States, on the basis of Article 23(3)-(4) of the <i>Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States</i> (hereinafter referred as to FD). The executing judicial authority shall examine regularly whether the reasons of the postponement ceased to exist. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>b) If no ground for refusal of the EAW is identified, arrested persons shall either remain under surrender arrest or under criminal supervision (which similar to house arrest) until the reasons of the postponement ceased to exist. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>c) Though the surrender of requested persons shall be postponed, trials in connection with the execution of EAWs shall continue to be held. However, the trials shall be held by videoconference, irrespective of the nationality of the requested person or the issuing Member State. <i>[20.03.2020- Council document no. WK 3047/2020 REV1]</i></p> <p>d) It is for the issuing judicial authorities to decide whether to issue new EAWs or to withdraw existing ones on the basis of proportionality and practicality in the light of the pandemic, examining whether other tools of criminal cooperation such as videoconference under the EIO Directive (2014/41/EU) can serve as an adequate substitute for the EAW. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>i) Transits through Hungary pursuant to Article 25 of the EAW FD and Article 16 of the 2008/909/JHA FD cannot be executed due to COVID-19 precautions. <i>[18.03.2020 – EJN questionnaire – revised 30.03.2020]</i></p>
Other JCI / general comments	<p>viii) EIO and other MLA requests are not executed only in emergency cases. They can be executed but with the following restrictions:</p> <ul style="list-style-type: none"> - temporary transfer of persons held in custody cannot be executed neither of the directions; - hearing of persons can take place only by videoconference. <p>EIO/requests should be sent by email to the ordinary addresses indicated in the EJN Atlas. They should not be sent to a central authority.</p>

	<p><i>[01.04.2020 – EJN questionnaire]</i></p> <p>e) Transfer of prisoners on the basis of the Council Framework Decision 2008/909/JHA is also suspended in respect of every Member States due to COVID 19. The pandemic has impact on the EIO Directive, as well: temporary transfer of detained persons cannot be executed in neither of the directions; hearing of persons can take place only by videoconference. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1- revised 30.03.2020 via EJN]</i></p> <p>ii) The situation is similar with third countries in connection with extradition, transfer of sentenced persons and MLA. <i>[18.03.2020 – EJN questionnaire – revised 30.03.2020]</i></p>
<p>Recommended channels for information exchange</p>	<p>f) From the experiences of the Ministry of Justice, as the designated central authority under Article 7 of the FD, the most effective channels in emergency situations are the Eurojust and Sirene. EJN can also be useful for informing about the applicable emergency rules or practises of other Member States. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>


III.XIV. Ireland (IE)

[Return to questions](#)

IRELAND 	
EAW	<p>a) Ireland is applying Article 23(4) of the Framework Decision to current EAW cases. [24.03.2020 - Council document no. WK 3047/2020 REV2]</p> <p>b) The granting of bail to persons held in custody on foot of EAWs is a matter for the judicial authority and cases are being considered on application to the judicial authority. [24.03.2020 - Council document no. WK 3047/2020 REV2]</p> <p>c) The Judicial Authority has issued a general instruction to the Central Authority to ask a given issuing Member State whether the EAW in question is urgent. If not consideration of the matter is temporarily suspended. [24.03.2020 - Council document no. WK 3047/2020 REV2]</p> <p>d) Decisions on issuing EAWs will be taken on an individual basis so long as the current crisis impacts on the operational viability of the system. [24.03.2020 - Council document no. WK 3047/2020 REV2]</p> <p>3) Ireland is applying Article 23(4) to the EAW Framework Decision (2002/584/JHA) to current EAW cases. Where appropriate, Ireland is postponing EAW surrenders on humanitarian grounds, pursuant to section 18(1)(a) of the European Arrest Warrant act 2003. This provision reflects article 23.4 of the EAW framework decision. The Judicial Authority has issued a general instruction to the Central Authority to ask issuing a given Member States whether the EAW in question is urgent. If not consideration of the matter is temporarily suspended. [23.03.2020 - Exchange of information among NDs at Eurojust]</p>
Other JCI / general comments	<p>e) No comments on this matter [24.03.2020 - Council document no. WK 3047/2020 REV2]</p>
Recommended channels for information exchange	<p>f) Eurojust [24.03.2020 - Council document no. WK 3047/2020 REV2]</p>

III.XV. Italy (IT)

[Return to questions](#)

ITALY 	
EAW	<p>v) Surrenders are possible, but we experienced some practical obstacles both as Issuing and Executing State. According to the information so far available, previous negative Covid19-test is not required. However, all incoming and leaving inmates have to undergo an accurate screening according to the medical protocols specifically put in place for the epidemic by the competent office of the Italian Ministry of Justice, namely the Department of Penitentiary Administration. The same applies for escorting officers, except this is required, case by case, according to their specific health conditions (body temperature higher than 37.5 Celsius degrees, etc.). <i>[01.04.2020 – EJN questionnaire]</i></p> <p>vi) Transits are possible, however we didn't have transit cases since the beginning of COVID-19 emergency. According to the information so far available, previous negative Covid19-test is not required. See answer given to questions made in relation to EAW's surrenders. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>a) In Italy, there is not a general postponement of EAW surrender procedures. However, as some Member States decided to cancel flights from/to Italy, in some cases it was actually impossible to put in place police arrangements related to surrender. This happened, in particular, in EAW procedures regarding Romania as Issuing State. In this regard, the Ministry of Justice suggested to our Courts of appeal, as competent judicial authorities, to postpone the surrender due to force majeure according to article 23 paragraph 3 of EAW FD, corresponding to article 23 paragraph 2 of the Italian implementing Law. Nowadays, it is not predictable for how long this kind of postponement will be in place. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1 – revised on 30.03.2020 via EJN]</i></p> <p>b) To date, we are not aware of cases in which persons held in custody were released as a consequence of the postponement of their surrender due to force majeure according to article 23 paragraph 2 of Law 22.4.2005 no. 69 (Italian Law governing EAW procedure). <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>c) Italy did not decide to stop the execution of EAWs, but related hearings and procedures have been respectively postponed and suspended from 9.3 to 15.4.2020 according to the general provisions contained in article 83 paragraphs 1 and 2 of the extraordinary and urgent Decree issued by the Italian Government on 17.3.2020 n. 18. However, EAW procedures in which the person concerned is in custody for the purpose of his/her surrender, have been, and will be, regularly carried on according to the will of the said person. That is why every prisoner who is supposed to be surrendered to another Member State has to undergo an accurate</p>

screening according to the medical protocols specifically put in place for the epidemic by the competent office of the Italian Ministry of Justice.

[20.03.2020 - Council document no. WK 3047/2020 REV1 – revised 30.03.2020 via EJN]

d) No.

[20.03.2020 - Council document no. WK 3047/2020 REV1]

i) (...) the competent office of the Ministry of Justice (namely the Department of Penitentiary Administration) decided to channel new surrenders in the Rome Fiumicino Airport and consequently allocate new inmates in the prisons of Rome Rebibbia and Civitavecchia. Moreover, every new detainee must undergo an accurate screening according to the medical protocols specifically put in place for the epidemic. All of this concerns Italy as Issuing State.

As regards Italy as Executing State, the fact is that some countries have suspended flights to/from Italy, and other countries officials are not allowed to travel to Italy for taking in custody persons who have been object of positive EAW judgments of Italian judicial authorities (this is, namely, the case of Romania). In these cases our Ministry suggested our Courts of appeal, as competent judicial authorities, to postpone the surrender due to force majeure according to article 23 paragraph 3 of EAW FD.

[16/03/2020 – EJN questionnaire]

1) See the attached circular by the Ministry of Justice (in Italian).

The relevant part in English reads as follows (unofficial translation): Where INTERPOL or the SIRENE unit communicate the impossibility to carry out the surrender for the abovementioned reasons [urgent measures adopted by Member States to contain the COVID-19 emergency], the judicial authorities are kindly invited to consider applying Article 23(2) of Law no. 69/2005 and suspend the execution of the surrender for force majeure (...). As provided by the abovementioned provision, the Ministry of Justice shall be immediately informed of the suspension, and it will inform the authorities in the issuing Member State.


Once INTERPOL and the SIRENE unit inform that it has become possible to carry out the surrender, pursuant to Article 23(3) of Law no.69/2005, the judicial authority shall timely inform the Ministry of Justice who, based on the information provided by INTERPOL and the SIRENE Unit, will agree with the authorities of the issuing Member State on a new surrender date.


[16.03.2020 – Eurojust questionnaire]



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iv) Our assessment is that the provision *prevented by circumstances beyond the control of any of the Member States* in Article 23 (3) of EAW FD should be subject to a broad interpretation, such as to cover the current health emergency, even if there is not an absolute travel ban. Therefore, we suggested our Courts of appeal, as competent judicial authorities, to postpone surrender in all cases in which, for example, the police officer of the Issuing Member State will not or were not allowed

	<p>to travel to Italy as a preventive safety measure. Moreover, please be aware that the provision above was implemented in the Italian law as <i>force majeure</i>. [19.03.2020 – EJN questionnaire]</p>
<p>Other JCI / general comments</p>	<p>vii) Transfers of prisoners are possible, but we experienced some practical obstacles both as Issuing and Executing State. According to the information so far available, previous negative Covid19-test is not required. However, all incoming and leaving inmates have to undergo an accurate screening according to the medical protocols specifically put in place for the epidemic by the competent office of the Italian Ministry of Justice, namely the Department of Penitentiary Administration. The same applies for escorting officers, except this is required, case by case, according to their specific health conditions (body temperature higher than 37.5 Celsius degrees, etc.). [01.04.2020 – EJN questionnaire]</p> <p>viii) In urgent cases EIO and MLA requests are immediately handled, so far as possible. In ordinary cases EIO and MLA requests are handled as usual, taking into consideration that, nowadays, labour force is strongly reduced. EIO/requests should be sent by email to the ordinary addresses indicated in the EJN Atlas. In case of need, requests should be sent to the MoJ: ufficio2.dgpenale.dag@giustizia.it. As concerns the PPO of Milan, please see the embedded file:</p> <div style="text-align: center;">  <p>PPO Milan letter to EJN 6 April 2.pdf</p> </div> <p>[06.04.2020 – EJN questionnaire]</p> <p>e) As regards FD 2008/909, Italy experienced the same problems mentioned in answer to question A, with particular reference to the procedures regarding Romania as Executing State. As regards Directive 2014/41, it has to be underlined that – subject to exceptions related to urgent cases – all civil and criminal proceedings have been suspended from 9.3 to 15.4.2020 according to the general provision contained in article 83 paragraphs 1 and 2 of the extraordinary and urgent Decree issued by the Italian Government on 17.3.2020 n. 18. [20.03.2020 - Council document no. WK 3047/2020 REV1 – revised 30.03.2020 via EJN]</p> <p>iii) (...) the latest adopted measures concerning Mutual Legal Assistance for the district of Milan (which includes Milan, Busto Arsizio, Como, Lecco, Lodi, Monza, Pavia, Sondrio and Varese). Please find herewith the measures summarised below for your quick reference: - All incoming MLA, EIOs and any other request or communication correspondence regarding any MLA matters should be sent only by email. Requests sent by post may not be processed for a long period of time. - The Prosecutor’s office will make all possible efforts to ensure assistance, especially for urgent/serious cases. However you should expect some delays. - Any requests aimed at obtaining interviews in person, physical searches and any activity involving physical contacts may not be performed due to sanitary reasons. Those measures may apply to the whole Country. [10.03.2020 – EJN questionnaire + revised 30.03.2020]</p>

	<p>See also the general measures described in the embedded file:</p>  IT_COVID-19 information sheet to E
<p><i>Recommended channels for information exchange</i></p>	<p>f) Italy considers worthwhile to use all the channels of communications mentioned in the question, with special reference to Eurojust and the EJN. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>


III.XVI. Latvia (LV)

[Return to questions](#)

LATVIA 	
EAW	<p>a) Due to declared state of emergency all the air, sea and land borders of Latvia for passengers' transport have been locked down. EAW executions therefore based on force majeure event for the time being is also suspended. Exceptions are possible at the political level when it is a question about specific persons surrender and transfer considering the level of danger of the committed offence. On 19 March the Cabinet of Ministers intends to take a decision to postpone all the execution and surrender procedures due to state of emergency. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>b) Currently this issue is not raised. Theoretically if the state of emergency will be extended there is a possibility to void the appropriate means of security – detention – for persons who must be extradite. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>c) As mentioned previously, the Cabinet of Ministers on 19 March intends to take a decision to postpone all the execution and surrender procedures due to state of emergency. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>d) Currently there is no problems with issuing the EAW to declare the person in international search. Regarding the practicalities of the actual surrender procedure (convoying from abroad) there is a case with Germany, where it has been asked to postpone the transfer until the end of state of emergency. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>
Other JCI / general comments	<p>Please note that Latvia has declared state of emergency until 14 April. Situation changes all the time thus, the Cabinet of Ministers and Parliament (Saeima) also adopts new decisions day by day. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>e) Regarding the EIO primarily are fulfilled requests or parts that do not require the contact with the person (there are possible exceptions, same as in the EAW cases). The participation of foreigner participants in the proceedings are not permitted regarding the execution of investigative activities. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>
Recommended channels for information exchange	<p>f) The best channels would be SIRENE, direct contacts, if necessary Eurojust. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>

III.XVII. Lithuania (LT)

[Return to questions](#)

LITHUANIA	
	
EAW	<p>a) The practical surrender of the requested persons shall be suspended until 14 April 2020. In respect of all Member States. Legal basis: (1) Resolution of the Government on declaring quarantine on the entire territory of the Republic of Lithuania until 27 March 2020 and (2) Criminal Procedure Code of the Republic of Lithuania, Article 76 implementing Article 23 FD EAW. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>b) It shall be decided on case by case basis, considering the term already spent in custody, the seriousness of the criminal offence, personality of the requested person and the possibility to ensure the execution of the EAW applying less restrictive provisional measures. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>d) NO, but bearing in mind the Resolution of the Government on declaring quarantine on the entire territory of the Republic of Lithuania, the General Prosecutor's Office will apply to competent authority of other EU Member State proposing to postpone the surrender of the person to Lithuania at least until 14 April. That concerns all Member States. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>
Other JCI / general comments	<p>e) All practical transfers of prisoners under 2008/909/JHA are suspended at least until 14 April. Execution of EIO might be impacted by the fact that most of officials at prosecution services and courts are under remote working. EIOs will be executed, however, in the view that the entire work of the Prosecution Office of the Republic of Lithuania during the quarantine regime from 16 till 30 of March is organised in the remote way (the same as the work of Lithuanian courts and law enforcement institutions) there could be some delays. The Prosecutor General's Office of the Republic of Lithuania is making all possible efforts to ensure the required assistance, especially in urgent/serious cases. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>
Recommended channels for information exchange	<p>f) We consider Eurojust to be one of the main channels. We also encourage using the EJN contact points or contacts of other networks, SIS Sirene and other forms of informal communication for some specific questions or requests in order to have the best possible coordination, given the current situation. In addition, regarding national focal points, for the purpose of better organisation of work during the quarantine regime, the Prosecutor General's Office of the Republic of Lithuania has created a special e-mail box – International@prokuraturos.lt – where all correspondence related with the international cooperation in criminal matters is asked to be sent. The information about that was circulated via Eurojust to all EU member states. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>

III.XVIII. Luxembourg (LU)

[Return to questions](#)

LUXEMBOURG	
<i>EAW</i>	<p>iv) <i>The current situation is force majeure and therefore would be beyond the control of the Member States. This does not mean however that we should not seek to execute surrenders if there is a way.</i></p> <p><i>[20.03.2020 – EJN questionnaire]</i></p>
<i>Other JCI / general comments</i>	<p>a, b, c, d, e, f) Luxembourg, 19 March 2020</p> <p style="text-align: center;">Communication from the Luxembourg central authority for legal assistance in criminal matters on the health crisis caused by COVID-19</p> <p>In view of the health emergency caused by the Coronavirus, also designated as « COVID-19 », Luxembourg has declared on 18 March 2020 the state of emergency. This exceptional situation implies a limitation of the availability of magistrates and police services for non-essential and non-urgent missions. It has, by necessity, also repercussions on the execution of requests for international mutual legal assistance in criminal matters, requests for extradition, European arrest warrants and request for transfer of sentenced persons addressed to the Grand Duchy of Luxembourg. The execution of requests for international mutual legal assistance in criminal matters will be limited to serious and urgent cases or those involving prisoners. The execution of extradition requests and European arrest warrants will be ensured as far as possible when the requested person is already in detention. The execution of requests for transfer of sentenced persons will, in principle, be suspended until after the end of the state of emergency. It is recommended to systematically send an electronic copy of requests for international mutual legal assistance in criminal matters and extradition requests to the following e-mail address: SecSepi@justice.etat.lu. Questions relating to requests for the transfer of sentenced persons should be addressed to the following e-mail address: Pgexp@justice.etat.lu. The General State Prosecutor <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>i) Luxembourg has as from today <i>[13/03/2020]</i> introduced several emergency measures, for a provisional duration of 1 month (3.4.2020):</p> <ul style="list-style-type: none"> - Only urgent cases will be heard (detained persons, requests for anticipated liberation, EAWs) - Teams in the different PPOs / Units are split into two groups, who are not working at the same time in the building and should not be in contact with each other - Homeworking where compatible with the function of prosecutor / judge <p>Luxembourg has not yet applied art. 23 EAW FD, but will do so if necessary, after a case by case analysis. Please find hereafter the official communication (in French) from 13/03/2020:</p> <p><i>Communiqué de l'Administration judiciaire – mesures décidées suite à l'évolution du Coronavirus</i></p>

	<p><i>Dans le souci de limiter au maximum les flux de personnes sur les trois sites de la justice à Luxembourg (Luxembourg-Ville, Esch s/Alzette et Diekirch) il a été décidé de limiter les audiences publiques à un stricte minimum :</i></p> <ul style="list-style-type: none"> • <i>en matière pénale, tant pour les tribunaux d'arrondissement de Luxembourg et de Diekirch que pour la Cour d'appel, seuls les procès impliquant une personne détenue et ceux devant être évacués d'urgence pour des raisons spécifiques, resteront à l'ordre du jour. Sont donc décommandées toutes les autres affaires criminelles, correctionnelles et de police,</i> • <i>les permanences des parquets et des cabinets d'instruction restent assurées,</i> • <i>les chambres du conseil près les deux tribunaux d'arrondissement et la Cour d'appel fonctionneront en service réduit,</i> • <i>en matière d'affaires de la jeunesse, les affaires urgentes seront traitées</i> • <i>en matières civiles et commerciales le suivi des affaires urgentes et des affaires nouvelles est garanti auprès de toutes les juridictions.</i> <p><i>Il y a également des changements en ce qui concerne les demandes en obtention de permis de visite de détenus préventifs et/ou de personnes condamnées. Les services traitant ces demandes sont désormais et jusqu'à nouvel ordre, fermés au public et uniquement les demandes envoyées par courriel à l'adresse suivante seront prises en compte : permis.visites@justice.etat.lu</i></p> <p><i>Les modalités à respecter en vue de la délivrance d'un permis de visite sont indiquées dans le formulaire correspondant. Il est impératif que le formulaire rempli dûment soit complété par le scan d'une pièce d'identité valable.</i></p> <p><i>L'Administration judiciaire a ainsi mis en place les mesures qui s'imposent à ce stade de la pandémie pour, d'un côté, garantir un service réduit fonctionnel et d'un autre côté pour sauvegarder dans la mesure du possible la santé de tous les collaborateurs. Enfin, le communiqué du Parquet général du 12.03.2020, concernant la fermeture complète sinon partielle de certains autres services de la justice, est rappelé.</i></p> <p><i>[13.03.2020 – EJN questionnaire]</i></p>
<p><i>Recommended channels for information exchange</i></p>	<p>N/A</p>


III.XIX. Malta (MT)

[Return to questions](#)

MALTA	
EAW	<p>a) Malta has not suspended the execution of EAWs. We are of course aware of the possible practical difficulties which may hinder the execution of particular EAWs but as yet we do not consider that an outright suspension is necessary. We are of course monitoring the situation and in the first place we will try to resolve issues on a practical level. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>b) So far no such releases were necessary. We have one person whose case was pending actual surrender, and we have filed an application in terms of Maltese law (regulations 34(4)(b) and 45(3)(b) of LN 320 of 20041) so that the actual surrender will happen within 10 days from 1st May 2020 (a date agreed by both the requesting and requested State). The Court acceded to the request. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>c) The precautions relating to health are those applicable to the general population which involve numerous measures (closure of schools, bars and restaurants, cinemas, clubs, etc. and also of the law courts except for urgent cases) which just fall short of a lockdown. In the case of detained persons, the measures applicable are those which apply to detainees at the Correctional Facility. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>d) Legally we cannot withdraw already issued EAWs if grounds for the person's arrest still exist and the local warrant is still <i>in vigore</i>. Given that court proceedings and legal terms have been suspended by order of the Health Superintendent it is highly unlikely that there will be new EAWs issued, save very serious and urgent cases. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>
Other JCI / general comments	<p>e) Possibly yes, given the travel restrictions imposed by Malta and by many other States. Specifically, with regards to the EIO, it depends very much on the measure being requested. Although all efforts are being done so that the impact of the crisis will be contained as much as possible we cannot rule out that there could be a negative impact on the execution of the same. This also in light of the fact that court proceedings and legal time limits have been suspended save for urgent cases and cases where the Court considers that a superseding public interest militates in favour of hearing the case despite the risks. For example, if an EIO requests the hearing of a witness this might not be possible because of court closure and hence the execution will be delayed. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>
Recommended channels for information exchange	<p>f) We would recommend Eurojust/EJN and SIS Sirene. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>

III.XX. Netherlands (NL)

[Return to questions](#)

NETHERLANDS	
	
EAW	<p>v) In principle surrenders are possible. In practice at this stage only with neighbouring countries over land. No Covid test needed. In order to be able to detain a requested person with symptoms of Covid-19, a declaration by a GGD-doctor is required that he is not ill. No regulation on testing of escorting officers, as far as we know. <i>[06.04.2020 – EJN questionnaire]</i></p> <p>vi) Since flights are very limited, there are no transits actually taking place at the airports. <i>[06.04.2020 – EJN questionnaire]</i></p> <p>3) With regard to the persons in custody because of an EAW, it will be examined per case if the requested person is a flight risk. If he is not a flight risk, the PPO will examine if house arrest is a possibility. Additionally, the arraignment will be carried out through video conference if possible. With regard to the actual surrender of a requested person, it will be decided per case if the surrender can be carried out or if the surrender will be temporarily postponed. For the surrender it will be examined if there are still flights scheduled to the country that filed the EAW, or if the country of transfer is still accepting flights coming from the Netherlands. <i>[24.03.2020 – Exchange of information among NDs at Eurojust - revised 31.03.2020]</i></p> <p>a) The International Center for Legal Assistance Amsterdam (IRC), as the competent authority to receive and to execute all incoming EAWs, has taken the following measures relating to COVID-19: 1) There is no general decision to suspend the execution of EAWs. The IRC will act on the basis of selectivity, to set out new arrests based on EAWs. In urgent cases and regarding serious criminal offences new arrests will take place on the basis of an EAW. After the arrest, a conditional release may take place in cases without the risk of flight. In other cases the investigating judge or the public prosecutor will decide to prolong the detention. For now, we do not have a selection regarding specific MS. However in a number of cases the actual surrender has been refused by some MS, with a request to postpone the actual surrender till another (unknown) date. At the moment the reactions of issuing MS fluctuates, therefore there is no clear picture which MS generally still allow actual surrenders and which MS generally do not allow actual surrenders anymore. The surrender procedure takes approximately 3 months. In this period the situation on COVID-19 might have changed/improved/amended, in the sense that an actual surrender might take place within a few months after the arrest on the basis of an EAW. 2) The Amsterdam court, the CA to decide on EAWs, has postponed court sessions regarding EAWs at least until 6 April 2020. Nevertheless, judgements will be given as usual. In pending cases the court will in principle prolong the detention until the</p>

resumption of the case. A temporary suspension of the surrender related to COVID-19 – force majeure – can be based on Article 23 FD EAW, implemented in Article 34.2 and 35.2 of the Dutch Surrender Act. A new date can be set out and a new time limit of 10 days will apply. In the meantime the IRC is determined to proceed surrendering requested persons on a ‘case by case’ basis to all MS.

[20.03.2020 - Council document no. WK 3047/2020 REV1]

b) Yes, at the moment in two cases, where the Court allowed the surrender, it was decided by the IRC to conditionally release a wanted person, until the actual surrender at another (unknown) date. This was regarding two actual surrenders, that were refused by one member state. Regarding these persons the IRC assessed that there was no risk of flight. More such cases will probably follow, with more MS. If in these future cases it is assessed that there is a risk of flight, the IRC will request the Court to prolong the detention.

[20.03.2020 - Council document no. WK 3047/2020 REV1]

c) The penitentiaries and the services that take care of the transport of the requested persons will take all necessary measures that have been imposed nationwide because of COVID-19.

[20.03.2020 - Council document no. WK 3047/2020 REV1]

d) There is no general decision to suspend the issuing of EAWs. We do not apply restrictions with regard to specific MS.

[20.03.2020 - Council document no. WK 3047/2020 REV1]

i) There is no general decision to suspend the execution of EAWs. The IRC will act on the basis of selectivity, to set out new arrests based on EAWs. In urgent cases and regarding serious criminal offences new arrests will take place on the basis of an EAW. After the arrest, a conditional release may take place in cases without the risk of flight. In other cases the investigating judge or the public prosecutor will decide to prolong the detention.

The Amsterdam court, the Competent Authority to decide on EAWs, has postponed court sessions regarding EAWs at least until 6 April 2020. Nevertheless, judgements will be given as usual. In pending cases the court will in principle prolong the detention until the resumption of the case.

[18.03.2020 – EJN questionnaire]

ii) A temporary suspension of the surrender related to COVID-19 – force majeure – can be based on Article 23 FD EAW, implemented in Article 34.2 and 35.2 of the Dutch Surrender Act. A new date can be set out and a new time limit of 10 days will apply.

In the meantime the IRC, the competent authority in the Netherlands to receive and to execute EAWs, is determined to proceed.

[18.03.2020 – EJN questionnaire]

iii) A request of a member state to temporarily suspend the actual surrender of a requested person after a decision on the EAW, related to COVID-19 – force majeure – can be based on Article 23 par 3 FD EAW. The surrender detention will be prolonged and a new date for the transfer can be set out.

In the meantime the IRC Amsterdam, the Dutch competent authority, is determined to proceed surrendering requested persons on a ‘case by case’ basis to all MS as much as possible.

	<p>Surrender based on EAWs to neighbouring countries Belgium and Germany over land do still take place. [25.03.2020 - EJN questionnaire]</p>
<p><i>Other JCI / general comments</i></p>	<p>vii) Regarding transfers of prisoners the same procedure applies as with regard to surrender of requested persons. [06.04.2020 – EJN questionnaire]</p> <p>viii) EIOs and MLA requests will be executed not only in emergency situations. Of course, the measures taken with regard to the pandemic result in prioritising the execution of MLA's. The actual limitations concerns mainly requests/EIO that require physical contact, such as questioning and search of premises. All other requests can be handled and executed. Preferably by email, to the ordinary addresses in EJN Atlas. But through mail is still possible, although can no longer be guaranteed. [06.04.2020 – EJN questionnaire]</p> <p>e) EIOs will in principle be executed. It is also foreseeable that execution of these requests may be delayed, especially when physical contact is necessary for the execution of the request, like the interview of a witness or a house search. EIOs will still be issued, however we are aware of the restrictions that apply in several MS. Regarding the transfer of prisoners, the CA will decide on the basis of 'case by case' whether or not to proceed the actual transfer, depending the measures of MS. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>
<p><i>Recommended channels for information exchange</i></p>	<p>viii) All urgent requests from MS can be send by e-mail to the LIRC, the National International Center for Legal Assistance: LIRC-LP@politie.nl Furthermore, contact can be made through SIS Sirene and Interpol (24/7). [06.04.2020 – EJN questionnaire]</p> <p>d) (...) all urgent requests from MS can be send by e-mail to the LIRC, the National International Center for Legal Assistance: LIRC-LP@politie.nl Furthermore, contact can be made through SIS Sirene and Interpol (24/7). The communications between, EJN NCs or CPs or other specific contact point mentioned by MS in separate mails, have been very helpful, so this channel is also useful. Furthermore communication could also take place through Eurojust. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>iii) (...) Dutch judicial and police authorities will to continue to execute requests and decisions for cooperation in criminal matters. However, also in the Netherlands preventive measures have been taken which have a limiting effect on our possibilities in executing the request. (...) Therefore it is possible that we will have to prioritize on the execution of your requests. It is also foreseeable that execution of your requests may be delayed, especially when physical contact is necessary for the execution of the request, like the interview of a witness or a house search. Furthermore, due to the preventive measures that have been taken, there is limited access to courts. Most judges and public prosecutors and colleagues working at our Central Authority will work from home. For this reason, I would like to ask you to communicate your requests by e-mail only, either directly to the IRC's- where direct contact is possible – or to the</p>

competent central authorities. I would also like to ask you to consider if your request can be postponed and send later in the year.

If you have an urgent request, I would like to ask you to send this request to the LIRC: **LIRC-LP@politie.nl** We will have personnel working at the office of the LIRC. With regard to EAW's I would like to inform you that we can still execute your requests. However, because of the current situation, the colleagues at IRC Amsterdam will prioritize the incoming EAW's, since the Dutch Law Enforcement Services also have to apply the preventive measures taken in relation to the pandemic.

[17.03.2020 – EJN questionnaire]

III.XXI. Poland (PL)

[Return to questions](#)

POLAND	
<i>EAW</i>	<p>PL general comments:</p> <ul style="list-style-type: none"> • In Poland there is no possibility to suspend the execution or issuing of EAWs <i>ex officio</i>, in particular by any decision of the Minister of Justice • EAW system in Poland is decentralized and only courts have an exclusive competence in relation to the EAWs execution and issuing • In a consequence, only courts decide – on a <i>case by case</i> basis – whether there are grounds to suspend the procedure related to the EAWs or to take any other decision in this regard • The courts are not obliged to inform the Ministry of Justice of any decisions on suspension the execution or issuing of EAWs • Taking into account the circumstances, in particular the fact that the state of epidemic threat was launched in Poland on 13 March 2020, the scope of information presented below has to be limited. <p>[20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>a) According to rt. 607n of the CCP: § 1. A requested person, against whom a final and binding decision on surrender was issued, is surrendered to a competent judicial authority of the issuing State no later than within seven days of the day on which the decision on surrender becomes final and binding. § 2. If the surrender of the requested person within the time limit referred to in § 1 is not practicable due to an event of force majeure or a danger to the life or health of this person, the requested person is surrendered to a competent judicial authority of the issuing State no later than within 10 days of the newly fixed time limit. § 3. If the issuing State fails to take a person liable to surrender into custody within the time limits laid down in § 1 or 2, the immediate release of such person is ordered, unless he is deprived of liberty in another case. No data on the suspension the execution od EAW's by any PL court (on 18 March 2020). [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>b-c-d) No data available (on 18 March 2020). [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>iv) In agreement with the views expressed on this issue. [20.03.2020 – EJN questionnaire]</p>
<i>Other JCI / general comments</i>	<p>e) No data available (on 18 March 2020). [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>


***Recommended
channels for
information
exchange***

f) All the channels should be used on a case by case basis in order to facilitate the procedure.

[20.03.2020 - Council document no. WK 3047/2020 REV1]


III.XXII. Portugal (PT)

[Return to questions](#)

PORTUGAL 	
EAW	<p>a) No, such decision has not been taken. However, Courts suspended their activities except for urgent cases. In case someone is arrested, the EAW procedure will be started because it's an urgent procedure and on duty Magistrates and clerks will deal with it. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>b) No, we are not aware of any such cases. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>c) There are no particular measures being taken at the moment. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>d) As already explained Courts in Portugal are closed except for urgent cases. Therefore, the issuing of EAWs will naturally be affected and diminished. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>i) So far Portuguese authorities have not implemented any measures specifically addressed to the transit of persons. Generic preventive measures may apply. [11.03.2020- EJN questionnaire]</p> <p>ii) No cases occurred so far. However we consider that article 23 n^o4 of the FWD on a case by case basis is applicable. [11.03.2020- EJN questionnaire]</p>
Other JCI / general comments	<p>e) Some transfers of prisoners, especially physical removal, have been cancelled due to COVID-19 implications, mainly in order to avoid circulation in airports. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>
Recommended channels for information exchange	<p>f) In Portugal, judicial authorities as well as the central authority have <i>on duty services</i>. Direct requests to the competent authorities, in cases of EAW, are considered <i>very urgent</i>; EIOs, with the mention of urgency clearly stated in the subject will be addressed immediately. We also consider that the intervention of urgent police channels, as well as EUROJUST, in duly justified cases, are an added value. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>

III.XXIII. Romania (RO)

[Return to questions](#)

ROMANIA 	
EAW	<p>v) A negative Covid-19-test may be needed for the surrendered person on a case by case basis. In any case, any person entering Romania will be placed under quarantine / home isolation for a period of 14 days. For the moment, the police authorities find themselves facing the practical impossibility to organise escorts. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>vi) In the framework of cancellation of flights and travel restrictions, transits are very difficult, but, in theory still possible, on a case by case basis. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>a) The execution of the EAW has not been suspended. However, for the surrenders, most courts apply article 23 of the FD EAW, considering that issuing member states have suspended taking over surrendered persons or are in impossibility to do so. We cannot estimate for how long this measure will be in place. Considering the Decree no. 195/2020 of the President of Romania establishing the state of emergency on the territory of Romania (for an initial period of 30 days as of 16 March 2020), the activity of courts continues in the cases of special emergency. Penal proceedings pending before the courts are suspended by law during the state of emergency, except for, among others, those regarding international judicial cooperation in criminal matters and cases where the concerned person is placed under arrest. Starting with 22 March, entrance on the territory of Romania of foreign citizens and stateless Persons was forbidden, with the following exceptions: a) family members of Romanian citizens; b) family members of citizens of other Member States of the European Union or of the European Economic Area or of the Swiss Confederation, residing in Romania; c) persons who hold a long-stay visa, a residence permit or a document equivalent to the stay issued by the Romanian authorities or a document equivalent to them issued by authorities of other states, in accordance with European Union law; d) persons traveling in professional interest, evidenced by visa, residence permit or other document equivalent; e) diplomatic or consular personnel, personnel of international organizations, military personnel or personnel who can provide humanitarian aid; f) passengers in transit, including those repatriated as a result of granting consular protection; g) passengers traveling on imperative grounds (medical or family); h) persons who need international protection or for other humanitarian reasons. <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p> <p>b) There is no information that any Romanian court has taken such measure. <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p>

c) The general precautionary measures have been established. However, the detention centers subordinated to the Ministry of Interior face a practical impossibility of handling the arrested persons that might become infected and the National Administration of Penitentiaries has also great difficulties in this respect.

[24.03.2020 - Council document no. WK 3047/2020 REV2]

d) No issuing or withdrawal of EAW's has been reported so far. Of course, if the executing authorities are informed that surrender cannot take place in the current epidemiological context, article 23 of FD 2002/584/JHA will be applied.

[24.03.2020 - Council document no. WK 3047/2020 REV2]

3) So far there have been four (4) Romanian court decisions approving the execution of the EAWs (two from Italy, one from Austria and one from Portugal) and postponing the surrender of the defendants until, I quote, " *the special circumstance which triggered the postponement (here the pandemic dimension of COVID and the travel ban) will cease but no later than 3 months*". It was also considered according to art. 58 paragraph 2 letter c of Law 302/2004 *that the immediate surrender of the defendants would have serious consequences on their state of health.*

Subsequently the defendants were released immediately from preventive custody in all four cases.

Their arrest was ordered for 30 days **but starting** with the date when the special circumstances which determined the postponement of the surrender (COVID-19, prejudice of the state of health) will cease to exist.

These are only 4 case examples (court decisions issued on 16th of March (enclosed to this email unfortunately only in RO language), another one issued yesterday, 18.03.2020, and two issued today, 19.03.2020) but others might follow.

If the courts adopt the same interpretation in the future and this is very likely to happen because all the court decisions were issued by the biggest Court in Romania , Bucharest Court of Appeal , **than the defendants whose EAWs were accepted and the surrender postponed will not be arrested .**

The work carried out by the RO prosecutors in the preliminary procedure of the execution of the EAW would be pointless as the defendants will not be arrested by the courts and they should start new procedures when the COVID-19 situation will cease and there is no danger for the health of the defendants to be surrendered to the issuing countries. Meanwhile as the defendants are set free it might be possible not to find them anymore when the situation will come to an end.

Under these circumstances the Romanian authorities would like to have some further thinking from the side of your HAs on the prioritisation of EAWs (only the ones referring to serious crimes)and the whole situation as the purpose of the EAW is far from being reached at this moment. (...)

Also my HAs would be very much in favour of having some position/guidance taken at a higher level, if feasible/possible.

[19.03.2020 – Exchange of information among NDs at Eurojust]


iv) The interpretation of the notion "prevented by circumstances beyond the control of any of the Member States" in Article 23 (3) of the EAW FD should be made from a broader perspective, meant to reach the purpose for which that provision exists.

	<p>Thus, in the current context of the COVID-19 pandemic, the circumstances covered by Article 23 (3) are not limited to particular measures such as temporary closer of borders or cancelling of flights, restriction of the freedom of movement within the territory of some Member States or to establishing the state of national emergency (as it is the case also in Romania, as of 16 March).</p> <p><u>The circumstance “beyond the control of any of the Member States” is this pandemic itself</u>, which could not be foreseen by any of the Member States, by any of us. Closure of borders or cancelling flights are just two of the effects of this situation, but not the only ones and not necessarily the ones which represent the biggest obstacle to the effective surrender. The main argument to apply Article 23 (3) is the protection of the public health, taking also the account the quarantine / isolation measures decided in most of the Member States, as well as the need to protect the law enforcement and judicial staff, but also the persons sought. Moreover, due to the state of emergency declared some Member States, the judicial activities are also performed in accordance with specific measures, even if EAW is among the urgent matters.</p> <p>If the current situation determined by COVID-19 is not as a whole a “circumstance beyond the control of any of the Member States” which falls in the scope of Article 23, a more obvious example cannot be imagined.</p> <p>We should make all of us prove of flexibility and to interpret the existing legislation in the interest of serving justice and of an effective judicial cooperation. Thus, any narrow interpretation is contrary to the letter and spirit of the EAW FD.</p> <p><i>[19.03.2020 – EJN questionnaire]</i></p>
<p><i>Other JCI / general comments</i></p>	<p>vii) Transfers of prisoners are possible on a case by case basis. In any case, any person entering Romania will be placed under quarantine / home isolation for a period of 14 days. The escorting officer does not need a negative Covid-19-test.</p> <p><i>[01.04.2020 – EJN questionnaire]</i></p> <p>e) According to the information available to the Romanian Ministry of Justice, the COVID-19 pandemic did not have any specific impact on the application of the EIO. However, the number of EIOs has decreased.</p> <p>The transfer of sentenced persons is directly affected by the outbreak. A significant part of the states with which we cooperate informed Romanian authorities that these activities have been suspended. Some countries where the sentenced persons should be transferred to present a high health risk and not only the sentenced persons but also the police officers face such risks (upon return from states in which more than 500 cases of COVID-19 have been reported, a 14 days quarantine is compulsory, thus significantly diminishing the number of active police officers). Furthermore, flights have been cancelled.</p> <p><i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p> <p>iii) (...) the Romanian judicial authorities and the Central authorities will continue to execute requests and decisions for judicial cooperation in criminal matters in a timely manner to the widest extent possible.</p> <p>However, please note that as state of emergency will be declared as of today on the whole territory of Romania, for 30 days, and bearing in mind the preventive measures taken by the Ministry of Justice, the Superior Council of Magistracy, the Prosecutor’s Office of the High Court of Cassation and Justice, as well as by all courts and public prosecutors offices, part of the judges, prosecutors, and officials of the Ministry of Justice will work from home and others with an adapted programme.</p>

	<p>(...) the Centre for International Police Cooperation has suspended transfers of prisoners / surrendered persons from Italy and Spain (...) Decree on the state of emergency (in force as of 16/03/2020 for 30 days, which could be extended) in Romanian. <i>Extract from the presidential decree, the Chapter V of the Annex I, concerning justice. One of the relevant provisions for our matters is that from Article 43 (2), by which during the state of emergency the trials are suspended, with several exceptions, including the cases on international judicial cooperation in criminal matters.</i> (...) <i>[16.03.2020 – EJN questionnaire]</i></p>
<p>Recommended channels for information exchange</p>	<p>viii) EIOs and mutual legal assistance requests should be sent by email. Central authorities can assist, but direct contact is preferred. dreptinternational@just.ro – for EAW, custodial sentences, as well as for EIOs and MLA requests during trial stage and regarding enforcement of sentences coop@mpublic.ro - for EIOs and MLA requests issued during investigation/prosecution diicot_cooperation@mpublic.ro - for EIOs and MLA requests issued during prosecution, for organised crime and terrorism offences anticoruptie@pna.ro - for EIOs and MLA requests issued during prosecution, for corruption offences. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>f) In urgent situations, Eurojust and SIS/Sirene should be the preferred channels to use. Of course, central authorities have not suspended their activity, even though measures for remote work are in place. <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p> <p>iii) The advice is to communicate requests by e-mail only, either directly to courts or prosecutor’s offices – where direct contact is possible – or to the competent central authorities. As far as the Ministry of Justice is concerned, as Romanian Central Authority for extradition, EAW, FD 2008/909, EIO Directive and MLA during trial phase etc, please contact it via e-mail at the functional inbox of the Directorate for International Law and Judicial Cooperation: dreptinternational@just.ro . <i>[16.03.2020 – EJN questionnaire]</i></p>

III.XXIV. Slovak Republic (SK)

[Return to questions](#)

SLOVAK REPUBLIC 	
EAW	<p>a) We haven't yet decided to apply this measure, however, we also currently examine possibilities of temporary suspension of surrender on the legal basis of Art. 23 FD EAW. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>b) No. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>c) All the police officers who are abroad for the purpose of transport and surrender person wear protective equipment. Subsequently, these police officers undergo 14 days quarantine. However, it has to be notice that such measures are not solutions from the long-term perspective. Since, the number of police officers, who arrange transports, is more and more limited due to the quarantine. These precautions have been taken in relations to all Member States and in relation to cases when Slovakia is issuing State, too. The person who is surrendered from abroad for the purpose of the execution of a custodial sentence is placed in the 14 days quarantine within the prison facilities and undergo the medical examination. If a person has respective symptoms, such person is tested on the COVID-19. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>d) No. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>iv) Currently possibilities of temporary suspension of surrender on the legal basis of Article 23 EAW FD are under examination. All the police officers who are abroad for the purpose of transport and surrender person wear protective equipment. Subsequently, these police officers undergo 14 days quarantine. However, it has to be noticed that such measures are not solutions from the long-term perspective. Since, the number of police officers, who arrange transports, is more and more limited due to the quarantine. These precautions have been taken in relation to all Member States and in relation to cases when Slovakia is issuing State, too. The person who is surrendered from abroad for the purpose of the execution of a custodial sentence is placed in the 14 days quarantine within the prison facilities and undergo a medical examination. If a person has respective symptoms, the person is tested for COVID-19. As regards the transfer of prisoners (FD 2008/909), all transfers were temporary suspended. <i>[23.03.2020 – EJN questionnaire]</i></p>
Other JCI / general comments	<p>e) As regards the transfer of prisoners (2008/909), all transits were temporary suspended. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>

Recommended channels for information exchange

f) We suggest using the EJN (national correspondents) for exchange of information, particularly if some general and/or legal issues will arise. In relation to operational issues we consider as best channel the SIS SIRENE.
[20.03.2020 - Council document no. WK 3047/2020 REV1]

III.XXV. Slovenia (SI)

[Return to questions](#)

SLOVENIA	
EAW	<p>v) Surrenders are still possible, but under the certain circumstances and only with neighbourhood countries (Austria, Italy, Croatia and Hungary). With other countries all surrenders, extraditions and transfer of the prison sentence are cancelled, because all flights are cancelled and other countries cancel and postponed all procedures regarding EAW, IAW or transfer of the prison sentence. Since 13.3.2020 we just executed one surrender from Austria to Slovenia under the EAW and at this moment we are planning to execute 2 surrenders more (one from Croatia to Slovenia and one from Austria to Slovenia), both under the EAW. In both cases we haven't received any request about the COVID -19 test for person in procedure or escorting police officers. A negative Covid 19 test is not required, but before the surrender person must be checked at prison doctor and must not have any signs of illness, esp. not symptoms of COVID-19. Health certificate is part of the protocol documents at surrender procedure and must be handed over to other police officers (surrender from Slovenia to other country) or to judicial police at prison (surrender from foreign country to Slovenia). In case of surrender procedure only thing that is requested is that person must have health certificate that he is in good health and with no symptoms of any illness esp. Covid-19 (fever, cough, shortness of breath and breathing difficulties). Escorting officers must follow all recommendations regarding self -protection measures. <i>[06.04.2020 – EJN questionnaire]</i></p> <p>vi) Transits are possible, but only by land. From the police point of view police can execute that kind of procedure, but just with permission of the Ministry of Justice (transit permission) and considering safety measures regarding epidemic of COVID -19. A negative Covid 19 test is not needed. <i>[06.04.2020 – EJN questionnaire]</i></p> <p>a) Slovenia has taken several measures in order to combat the spread of coronavirus. The president of the Supreme court of the Republic of Slovenia issued the Order on special measures due to the epidemy of COVID-19. In accordance with this Order, from 16th of March until 16th of May 2020 the Slovenian courts act limited. The period of special measures may be prolonged if needed. Trials will take place and decisions will be taken only in urgent cases. Urgent cases in the field of criminal matters are: investigations and adjudication in criminal cases in which the defendant is deprived of liberty or his liberty is restricted, and in criminal cases concerning aliens who are not residents of the Republic of Slovenia. Judicial deadlines and service of documents have been suspended, except for urgent cases. Slovenian courts are currently still taking decisions regarding incoming EAW's, however surrender of wanted persons by EAW will in most cases be suspended due to existing travel limitations and prohibitions. The courts have legal basis to temporarily postpone the surrender of wanted persons by the European arrest warrant in 23/IV of the FD EAW and Article 35/III of the Cooperation in criminal matters with the member states of the European Union Act. The courts are also bound by the judgement of the ECJ in the case of C-640/16 (Vilkas). Due to closing</p>

	<p>of the Airport in Ljubljana, all already planned surrender activities had been cancelled. Additionally, a proposal on a new law on temporary measures in the field of judicial, administrative and other public-law matters is in urgent legislative procedure. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>b) Until now, such measures have not been taken. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>c) Measures have been taken in relation to functioning of courts, such as the persons, which show clear signs of infections, are not allowed to enter court buildings. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>d) Until now, such measures have not been taken. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>i) The NC has yesterday [11.03.2020] informed all CP's and to the Courts of Appeal telling them to take into account Art.23 of FD, respectively the Art. of <i>the Slovenian</i> implementation law. Also were pointed out two decisions of the Court in Luxembourg regarding this Art. C-237/15 and C-640/15 (...). [12.03.2020 - EJN questionnaire]</p> <p>iv) The current situation is force majeure and therefore would be beyond the control of the Member States. This does not mean however that we should not seek to execute surrenders if there is a way. [20.03.2020 - EJN questionnaire]</p>
<p>Other JCI / general comments</p>	<p>vii) Transfers of prisoners are possible under the same circumstances as surrenders. [06.04.2020 - EJN questionnaire]</p> <p>viii) EIOs and other MLA requests are executed only in emergency situations. We have judges on duty 24/7 that are authorised to decide urgent cases; the other judges work from home. Requests should be sent by email, we would suggest via EJN contact points. [06.04.2020 - EJN questionnaire]</p> <p>e) As explained in point a) Slovenian courts only perform hearings and make decisions in urgent cases, which are investigations and adjudication in criminal cases in which the defendant is deprived of liberty or his liberty is restricted, and in criminal cases concerning aliens who are not residents of the Republic of Slovenia. Therefore, Slovenian courts do not perform the duties of issuing or executing authorities in accordance with the FD on Transfer of Prisoners (2008/909) unless in urgent cases. As regards issuing and executing of EIO's (2014/41), we inform you that the EIO's are issued and executed only in urgent cases, as determined above. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p>

Recommended channels for information exchange

viii) The national EJN correspondent: marjeta.svab-sirok@sodisce.si.
[06.04.2020 – EJN questionnaire]

f) We propose the communication over the SIS Sirene/Interpol and for judicial authorities over the European judicial network in criminal matters.
[20.03.2020 - Council document no. WK 3047/2020 REV1]


iii) (...) due to COVID-19 in Slovenia the Courts will act limited. Most judges will work from home. Trials will take place only in detention cases. But we will have judges on duty 24/7. All urgent MLA 's including EIO's and EAW will be handled. This could last until the 16th of May if not cancelled earlier.

In order to make share the request will get to the competent judge, I would kindly ask all, to send a copy of urgent requests to me by e-mail and inform me by cell phone +386 41 376 164. I will have access to my e-mail account all the time, but will not be on line. Therefore I ask to inform me on my cell phone.

Marjeta Švab Širok - EJN national correspondent from Slovenia
[13.03.2020 – EJN questionnaire]

III.XXVI. Spain (ES)

[Return to questions](#)

SPAIN 	
EAW	<p>v) EAW received in Spain are being processed so far in a normal and timely manner. Transfer and surrender is not possible and has to be temporarily postponed due to restrictions established in Spain or in the issuing state, The surrenders are formally deferred pursuant to Article 23 (3) of the EAW FD. The delay is immediately communicated to the issuing authority via SIRENE (SIS). [01.04.2020 – EJN questionnaire]</p> <p>vi) Transits are not possible during the exceptional situation. [01.04.2020 – EJN questionnaire]</p> <p>a) EAW's received in Spain are being processed normally and in a timely manner so far. However, whenever it is not possible to execute the surrender due to the restrictions established either in Spain or in the issuing country, surrender can be formally postponed in accordance with Article 23 of the FD. The competent judicial authority will decide on a case-by-case basis and depending on the concurrent circumstances, the applicable legal provision: A) Article 23.3 of the FD <i>"If the surrender of the requested person within the period laid down in paragraph 2 is prevented by circumstances beyond the control of any of the Member States, the executing and issuing judicial authorities shall immediately contact each other and agree on a new surrender date. In that event, the surrender shall take place within 10 days of the new date thus agreed."</i> In this case, the executing judicial authority shall immediately communicate with the issuing authority, including through SIRENE, the EJN and Eurojust. In accordance with Article 23(3) of the FD, the executing authority will conduct consultations with the issuing authority in order to agree on a new feasible date for surrender. This channel of dialogue will be maintained as long as the situation of force majeure persists. The surrender shall take place within 10 days of the new fixed date. B) Article 23.4 of the FD: <i>"The surrender may exceptionally be temporarily postponed for serious humanitarian reasons, for example if there are substantial grounds for believing that it would manifestly endanger the requested person's life or health. The execution of the European arrest warrant shall take place as soon as these grounds have ceased to exist. The executing judicial authority shall immediately inform the issuing judicial authority and agree on a new surrender date. In that event, the surrender shall take place within 10 days of the new date thus agreed."</i> This paragraph allows to postpone the surrender until the end of the state of alarm and even beyond (if on that date these circumstances continue) without having to fix a date. In any case, the postponement has two consequences: 1st) Impossibility/Difficulty to observe the deadlines set out in Article 23 of the FD 2nd) The need to decide on the personal situation of the person concerned. [20.03.2020 - Council document no. WK 3047/2020 REV1]</p> <p>b-c) According to article 23.5 DM <i>Upon expiry of the time limits referred to in paragraphs 2 to 4, if the person is still being held in custody he shall be released.</i> If 23.3 DM applies: Time limits will apply within 10 days of the new agreed date.</p>

If 23.4 DM applies: Time limits will only apply once the EAW can be executed because *these grounds have ceased to exist*.

Article 504 of the Spanish Criminal Procedural Law establishes time limits for pre-trial detention: they will last for as long as it is essential to achieve any of the purposes provided for in the previous article (503) and for as long as grounds still exist justifying it. Hence, it would be necessary to solve, case by case. Afterwards, “the executing judicial authority shall immediately inform the issuing judicial authority (...)” if it’s necessary to keep the pre-trial detention or it’s more appropriate to release the person under any measures considered applicable.

Regarding the personal situation of the requested persons, all precautionary measures must be assessed individually and having in mind the principle of proportionality, taking into account circumstances such as the seriousness of the offence for which the EAW has been issued, the risk of absconding, recidivism, danger to victims, etc. In short, the principle of proportionality is applied in accordance with the case law of the Court of Justice of the European Union; Judgments of 25 January 2017 (C-640/15) and 12 February 2019 (C- 492/18).

According to Article 12 of the Framework Decision, the person may be released provisionally at any time in conformity with the domestic law of the executing Member State, if the competent authority takes all the measures it deems necessary to prevent the person absconding.

So far, there has been a number of cases where the requested person has been released because of obstacles to conduct the physical surrender (either on the part of the requesting State or due to restriction of movement in Spain); other measures have been taken to guarantee the execution of the EAW, whenever it will be possible. Anyhow, all pending cases are potentially affected by this situation and will very likely be dealt with in the same manner.

→ As in other Member States, there have been no cases of persons affected by the disease being surrendered. Should this situation arise, Article 23(4) of the DM shall apply (postponement for serious humanitarian reasons).

[20.03.2020 - Council document no. WK 3047/2020 REV1]

d) → The issuing of EAW’s is not suspended, nor the withdrawal of already issued EAW’s is considered. However, in view of the current public health crisis, the General Prosecutor’s Office has recommended to be extremely cautious and apply an extraordinarily restrictive criterion when issuing EAW’s, limiting them to the most serious criminal offences.

[20.03.2020 - Council document no. WK 3047/2020 REV1]

iii) (...) In relation to the recognition and execution of the **European arrest warrants**, the Spanish competent authority is centralized in the six Central investigative Criminal Courts of the National High Court, which have stated that:

- **EAW received in Spain are being processed so far in a normal and timely manner.**

- When transfer and surrender is not possible and has to be temporarily postponed due to restrictions established in Spain or in the issuing state, the surrenders are formally deferred pursuant to Article 23 (3) of the EAW FD. The delay is immediately communicated to the issuing authority via SIRENE (SIS).

- In accordance with Article 23 (3) of the FD, consultations are ongoing with the issuing authority to set a new surrender date with the agreement of the authorities concerned and this channel of dialogue shall be kept open for the time necessary whilst force majeure in order to establish a new viable surrender date.

	<ul style="list-style-type: none"> • In relation to the personal situation of the requested persons, account is taken, in relation to the maintenance of precautionary measures (extension of provisional detention), of the seriousness of the offence for which the OED has been issued and of any other circumstances envisaged such as the risk of escape, recidivism, danger for the victims, etc. The principle of proportionality is being applied in accordance with the case-law of the Court of Justice of the European Union; Judgments of 25 January 2017 (C-640/15) and of 12 February 2019 (C-492/18). As in other Member States, there have not been so far cases of persons affected by the disease to be transferred and surrendered, in order to apply Article 23 (4) of the FD. (...) <i>[19.03.2020 – EJN questionnaire]</i> iv) Spain is applying the interpretation of Art 23 (3) EAW FD stated by Romania. Due to the declaration of the state of alarm by Royal Decree 463/ 2020, from 14th of March it is not possible to carry out surrenders both due to the limitation of movements and the difficulty in air communication. In this sense, the six judges of the Central Investigative Courts of the National High Court that are the competent authority for the execution of the EAW's have agreed to the application of Article 23 (3) EAW FD and they are communicating the postponement of deliveries because they understand that it is a case of force majeure that fits the provisions of this article. As far as we know in Spain, there are 35 cases of both active and passive deliveries affected by the exceptional situation. <i>[20.03.2020 – EJN questionnaire]</i> 1) (...) As far as I know the ES Desk does have a case with your Desk where a request for the suspension of the surrender of the requested person has been issued by the Spanish Investigating Judge based on Art. 23 of the FD, considering the coronavirus scenario as force majeure in line with our previous case by case experience (see Eurojust casework report) and the ECJ case law (case Vilkas C 640/15). <i>[16.03.2020 – Eurojust questionnaire]</i>
<p><i>Other JCI / general comments</i></p>	<ul style="list-style-type: none"> vii) No decisions on recognition of Judgements imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement and subsequent transfer of sentenced persons (FD 909/08), are currently being issued or are going to be issued during the health crisis. There is evidence that there are final decisions still to be executed and in this case the transfer is postponed in accordance with Article 15 (2) of the FD. Where Spain is the executing State, the expectation is to make use of the possibility provided for in Article 15 (3) of the FD. In general in relation to the issuing of mutual recognition instruments, during the force majeure situation, they shall be issued only in urgent and pressing cases and the transmission shall preferably be done by electronic means. The issuing authority shall check the receipt and notify Eurojust of the issuance in order to ensure the correct processing. <i>[01.04.2020 – EJN questionnaire]</i> viii) EIO and other MLA requests are executed only in urgent and serious cases. In general in relation to the issuing of mutual recognition instruments, during the force majeure situation, they shall be issued only in urgent and pressing cases and the transmission shall preferably be done by electronic means. The issuing authority shall check the receipt and notify Eurojust of the issuance in order to

ensure the correct processing. EIO/requests should be sent by email to the ordinary addresses indicated in the EJN Atlas.

[01.04.2020 – EJN questionnaire]

Preliminary note: According to Royal Decree 463/2020, that came into force on 14/3/2020, declaring the state of alarm in Spain until at least 29/3/2020 (with a possibility of extension - **ROYAL DECREE 476/2020 EXTENDED THE STATE OF ALARM UNTIL THE 12th OF APRIL WITH A POSSIBILITY OF EXTENSION**), procedural deadlines are suspended until, in principle, 12 April. Some exceptions exist, such as *habeas corpus* proceedings, proceedings involving persons arrested or detained, protection orders, urgent prison procedures, or any other protection measures adopted in connection with gender-based violence or juvenile proceedings. In addition, other urgent measures may be adopted under the Spanish procedural laws. Beyond the suspension of national procedural deadlines, no specific legal measures have been adopted in the field of mutual recognition instruments in relation to the coronavirus crisis, although in practice this crisis will have a real impact on them.

[20.03.2020 - Council document no. WK 3047/2020 REV1]

e) → In general terms, as long as this crisis lasts, requests on mutual recognition will only be issued in serious and urgent cases that cannot be postponed. Transmission will take place only by electronic means. As concerns mutual recognition requests received in Spain, the legal deadlines are considered suspended by force majeure. Anyway, preference will be given to requests that state their seriousness and urgency. In terms of urgency, European Protection Orders and urgent freezing and confiscation orders will be prioritised.

→ As concerns European Investigation Orders, only electronic formats shall be used, giving priority to urgent cases with a clear description of the reasons thereof. The difficulty of carrying out investigative measures involving transfer of persons or any other kind of physical contacts must be taken into account.

→ With regard to decisions imposing custodial sentences or measures and the transfer of sentenced persons (DM 909/08), which are considered not urgent by definition, no recognition decisions are being issued during this crisis. Decisions pending are being postponed in accordance with Section 15(2) of the FD.

[20.03.2020 - Council document no. WK 3047/2020 REV1]

iii) In Spain, no specific legal action has been taken regarding the impact of the crisis on the coronavirus crisis on the application of mutual recognition instruments.

However, at national level, Royal Decree 463/2020 has entered into force on the 14th of March, declaring the state of alarm until at least 29/3/2020, with the possibility of extension - **ROYAL DECREE 476/2020 EXTENDED THE STATE OF ALARM UNTIL THE 12th OF APRIL WITH A POSSIBILITY OF EXTENSION**.

In accordance with the Royal Decree, procedural time-limits are generally suspended until 12 April. However, there are exceptions such as *habeas corpus* procedures or those involving persons held in custody or in prison, as well as protection orders, urgent prison procedures, or any other protection measure adopted in gender-based violence or juvenile proceedings. In addition, measures may be taken which, due to their urgency, cannot be postponed in the framework of the Spanish procedure.

This necessarily has an impact on the issue of recognition and enforcement of mutual recognition instruments.

(...)

With regard to judgements imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement and subsequent **transfer of sentenced persons** (FD 909/08), no decisions on recognition are currently being issued or are going to be issued during the health crisis. There is evidence that there are final decisions still to be executed and in this case the transfer is postponed in accordance with Article 15 (2) of the FD. Where Spain is the executing State, the expectation is to make use of the possibility provided for in Article 15 (3) of the FD.

In general in relation to the **issuing of mutual recognition instruments**, during the force majeure situation, they shall be issued only in urgent and pressing cases and the transmission shall preferably be done by electronic means. The issuing authority shall check the receipt and notify Eurojust of the issuance in order to ensure the correct processing.

Generally, for the **recognition and enforcement of forms and certificates**, with the exception of what has already been said in relation to the European Arrest Warrant, the legal time limit is considered to be suspended by force majeure. Due to the difficulty in recognizing and executing all requests, petitions shall preferably be processed in preference to petitions stating their seriousness and urgency. We request the urgent forms and certificates to be transmitted electronically to the respective competent authorities for receipt, recognition and enforcement. In this sense, the European Protection Order or Urgent Freezing Order is to be emphasized.

As regards to the reception, recognition and execution of **European Investigation Orders**, we adhere to the previous communication by the international cooperation unit of the **State Prosecutor's Office**, as the receiving authority of EIO's in Spain, which has already been notified to the Network Secretariat. This communication stressed the need to resort to electronic format for transmission, and also the priority that will be given in dealing with urgent cases which are marked as a priority with a description of the reason for Urgency of the case. Account should be taken of the difficulty of carrying out investigative measures involving transfers of people or physical contact.

[19.03.2020 – EJN questionnaire]

ii) (...) with the aim of countering the spread of the COVID-19 pandemia, on 14 March 2020 the Government of Spain has issued a Royal Decree whereby a number of measures are adopted, being one of them a severe limitation of the freedom of movement of individuals: citizens should remain indoors and only if one of the listed circumstances are met they are allowed to leave their homes, being one of them commuting to work. The expiration of procedural deadlines has been suspended as a measure adopted in the field of criminal justice.

The Prosecutor General has issued instructions addressed to all prosecutors according to which the physical presence of prosecutors in the different Prosecution Offices should be limited to those situations when such presence is needed and teleworking from home should be the rule. Thus, only a limited number of prosecutors will be attending their workplaces.

For this reason, taking into account that the prosecutors are the receiving authorities for European investigation orders and that a high number of letters of requests are also received in the different Prosecution Offices, we foresee that delays in the execution of orders/requests are likely to occur. In order to minimise such delays, we encourage issuing/requesting authorities to send the

	<p>orders/requests only in electronic format; the system allows for prosecutors to deal with the orders/requests electronically from home. Urgent cases will be given priority, a red flag in the email and description of the urgency of the case in the email will be appreciated. Hard copies which have already been sent will also be dealt with by the competent prosecutor whenever he/she is present in his/her workplace.</p> <p>It should be borne in mind that the functioning of the case management system for judicial assistance depends on the administrative assistants and for this purpose their physical presence in the Prosecution Offices is needed, but also severe limitation on such presence have been imposed.</p> <p>Declarations and videoconferences of witnesses, experts and suspects/accused persons will most likely be postponed, but an assessment on a case-by-case basis will be carried out taking into account the circumstances of the case, bearing in mind the limitation of movement imposed on the citizens and the need to preserve their health.</p> <p>The same rule applies to any measure involving the need for any individual to leave their home or the presence of court officials in their homes for house searches, risking physical contact beyond what is strictly needed in contravention of the imposed limitations.</p> <p>The Spanish prosecutors will do their best endeavours to provide the requested assistance taking into account the abovementioned circumstances. For any further inquiry or assistance you may need do not hesitate to contact us via our corporate email: internacional.fge@fiscal.es.</p> <p><i>[16.03.2020 – EJN questionnaire]</i></p>
<p><i>Recommended channels for information exchange</i></p>	<p>f) Direct contacts between the judicial authorities concerned should be the essential tool, in line with the principle of direct communication between judicial authorities. Eurojust can play an important role to facilitate and speed up contacts between the judicial authorities concerned. In addition, for the enforcement of practical arrangements related to the EAW's the support and coordination with SIRENE is crucial.</p> <p><i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>iii) Ministry of Justice Secretary of State for Justice Directorate General for International Legal Cooperation and Human Rights</p> <p style="text-align: center;">COMUNICACION FROM THE SPANISH CENTRAL AUTHORITY ON THE HEALTH CRISIS CAUSED BY COVID-19</p> <p>In view of the health emergency caused by COVID-19, on 14 March 2020 the Spanish Government declared the situation of alert for the management of this health crisis. Some of the measures adopted will inevitably have an impact on the field of judicial cooperation.</p> <p>In addition to a series of containment measures in different areas, a limitation on the freedom of movement of persons has been established; physical attendance to the workplace is limited to essential and critical services and, in any case, through a shift system. Consequently, the Ministry of Justice has established a system of remote working, reducing physical presence at workplaces to a minimum. In addition, due to restrictions on travel and international flights, the diplomatic pouch service has been suspended too.</p> <p>In addition to that, judicial deadlines have been suspended, with the exception of serious urgent cases. This will clearly have an impact in judicial cooperation.</p>

In view of the above, and as long as this exceptional situation persists, the Spanish central authority cannot guarantee the normal processing of all incoming requests and, in particular, cannot guarantee the processing of hardcopy requests received by post. Likewise, requests will be sent exclusively by electronic means.

In particular:

MLA REQUESTS

Serious and urgent requests and cases with prisoners will be processed, provided that they are received by electronic means.

All requests shall be sent to the following email address:

rogatoriaspenal@mjusticia.es

EXTRADITION REQUESTS

Incoming extradition requests when the requested person is in prison will be processed in any case. The request should be sent by electronic means.

It should be noted, however, that due to existing travel limitations and prohibitions, physical transfer of convicted persons is strongly limited and subject to the criteria and instructions given by the police and law enforcement forces.

Outgoing extradition requests will be processed when the requested person is in custody. In any case, they shall be sent by electronic means.

All requests shall be sent to the following e-mail address:

extradiciones@mjusticia.es

TRANSFER OF SENTENCED PERSONS

Urgent transfer requests, based on humanitarian or other extraordinary matters, will be processed, provided they are sent by electronic means.

Requests shall be sent to the following email address:


sgcjitraslados@mjusticia.es

It should be noted, however, that due to existing travel limitations and prohibitions, physical transfer of convicted persons is strongly limited and subject to the criteria and instructions given by the police and law enforcement forces.

[19/03/2020 – EJN questionnaire]

III.XXVII. Sweden (SE)


[Return to questions](#)

SWEDEN 	
EAW	<p>v) Surrenders are possible and a negative Covid-19-test is not needed, neither for the requested person nor for the escorting officer. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>vi) Transits are possible and a negative Covid-19-test is not needed, neither for the requested person nor for the escorting officer. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>a) No, neither the Swedish Prosecution Authority nor the Swedish Economic Crime Authority has at this point decided to temporary suspend the execution of any European arrest warrants. Sweden has not made a general decision to suspend the execution of EAW's. Upon requests for postponement of the execution of arrest warrants in certain cases from some issuing authorities in other member states, the Swedish Prosecution Authority has decided to postpone the execution of these arrest warrants in accordance with Article 23.3 in the EAW Framework decision. In order to uphold the system of surrender it is however important that all possibilities for the surrender has been exempted before requesting postponement. When postponing a surrender an assessment of the proportionality will be done in the individual case with regard to the length of postponement and detention. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>3) Sweden has, in at least three cases (towards Poland, Slovakia and Croatia) decided to temporary suspend the execution of EAW's based on article 23.3. <i>[19.03.2020 – Exchange of information among NDs at Eurojust]</i></p> <p>b) No such measures have been taken at this point. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>c) At this moment we don't have any information that any particular measures have been taken. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>d) No such decision has been taken. It is important to uphold the system of surrender as far as possible. Swedish authorities are, to the extent possible, prepared to take over persons surrendered. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>ii) It cannot be ruled out that Article 23 Para 4 could be applicable if the person to be surrendered has been infected by the corona virus. There has been no such cases in Sweden. <i>[11.03.2020 – EJN questionnaire]</i></p>

<p>Other JCI / general comments</p>	<p>vii) Transfers of prisoners are possible. Essential for transport of a client is that he or she is not suspected or confirmed infected by Covid-19. Transport of a client with suspected or confirmed infection can only be made if it is absolutely necessary. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>viii) We deal with all incoming EIO and other MLA requests. Email is for the time being preferred but we do take care of ordinary mail too. The ordinary addresses in EJN Atlas should be used. <i>[01.04.2020 – EJN questionnaire]</i></p> <p>e) The Swedish Public Prosecution Authority has, regarding incoming EIO's, reported an increasing need for communication concerning how an EIO shall be executed. Regarding outgoing EIO's, the Authority has reported that they have received information of restrictions in the channels of communication and in the execution of EIO's from other member states. The Swedish Prison and Probation Service has reported that, regarding the Framework Decision 2008/909, problems to execute decisions on transfer of enforcement. At this time, it is not possible to meet the deadline for transport within 30 days due to the closing of borders of many member states. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p> <p>i) The Swedish Police Authority, responsible for transits through Sweden, has not implemented any specific measures due to the coronavirus in connection to the transits of the persons on the basis of the legal instruments in the area of judicial cooperation in criminal matter. <i>[11.03.2020 – EJN questionnaire]</i></p>
<p>Recommended channels for information exchange</p>	<p>d) This should be evaluated on a case by case basis. <i>[20.03.2020 - Council document no. WK 3047/2020 REV1]</i></p>


III.XXVIII. Iceland (IS)

[Return to questions](#)

ICELAND 	
EAW	<p>a) The Director of Public Prosecutions has not at this point decided to temporary suspend the execution of any EAW's. However, please note, that depending on the development of the situation, measures may be taken concerning the execution of EAW's, and the execution might get delayed due to that reason that execution of EAW requires direct contact (hearing and bringing the arrested person to court etc.). <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p> <p>b) No, there is no one in custody here in Iceland regarding execution of EAW's, but one person is in travel ban. <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p> <p>c) Regarding the execution of EAW's the Director of Public Prosecutions have not yet taken particular measures. However, we will assess the individual situation case by case in regards of which precautions to take according to the several restricting measure that the Icelandic government has taken. <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p> <p>d) No such decision has been taken. <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p>
Other JCI / general comments	<p>e) We will try to assist other authorities requests which are based on MLA's (not EIO's due to that reason we are not part of that system). Execution of MLA's that require direct contact (search, hearing etc.) might get delayed by the police. <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p>
Recommended channels for information exchange	<p>f) The Director of Public Prosecutions considers, that the best channel to use is SIS – Sirene or/and by sending email to our office, email: saksoknari@saksoknari.is <i>[24.03.2020 - Council document no. WK 3047/2020 REV2]</i></p>

III.XXIX. Norway (NO)

[Return to questions](#)

NORWAY 	
EAW	<p>a) Norway has not decided to temporary suspend the execution of Arrest Warrants. So far we have not postponed surrender due to force majeure according to the Agreement Article 26 para. 3. However, such cases are about to be handled at the moment. [24.03.2020 - Council document no. WK 3047/2020 REV2]</p> <p>b) Nobody has been released, so far. If surrender turns out to be impossible due to travel restrictions or similar force majeure, the Prosecution Authority and the Courts will decide on a case to case basis whether continued detention is justified according to our Code on Arrest Warrant section 30, which implement the Agreement Article 26 para. 3, or whether continued detention would be regarded as disproportionate. This assessment will depend on several issues, including the seriousness of the criminal case and the expected time of surrender. [24.03.2020 - Council document no. WK 3047/2020 REV2]</p> <p>c) No particular measures have so far been taken, apart from measures that the surrender has to take place at the transit areas as the foreign Police Officers should not enter Norwegian territory. [24.03.2020 - Council document no. WK 3047/2020 REV2]</p> <p>d) No, Norway has so far not decided to temporary suspend the issuing of Arrest Warrants, nor to withdraw already issued AWs. [24.03.2020 - Council document no. WK 3047/2020 REV2]</p>
Other JCI / general comments	<p>e) Norway does not apply the EIO. However, COVID-19 might have an impact on the execution and issuing of requests for Mutual Legal Assistance (MLA-requests). The Director of Public Prosecutions gave a Directive on 20 March 2020 that the handling of incoming MLA-requests may be given a lower priority at the moment if the criminal case does not concern a serious crime. However, such MLA-requests will be handled if the Authorities have recourses to do so. MLA-requests which concern serious crime will be handled with the same priority as before. According to the Directive, requests for Mutual Legal Assistance should only be issued by Norwegian prosecutors if the Prosecution Authority would have decided to carry out the requested investigative steps in the current situation. [24.03.2020 - Council document no. WK 3047/2020 REV2]</p>
Recommended channels for information exchange	<p>f) The Norwegian Director of Public Prosecutions considers that the best channel to use in order to exchange information is SIRENE. [24.03.2020 - Council document no. WK 3047/2020 REV2]</p>