An Bille um Barántas Gabhála Eorpach (Leasú), 2022
European Arrest Warrant (Amendment) Bill 2022

Mar a tionscnaiodh

As initiated
AN BILLE UM BARÁNTAS GABHÁLA EORPACH (LEASÚ), 2022
EUROPEAN ARREST WARRANT (AMENDMENT) BILL 2022

Mar a tionscaíodh
As initiated

CONTENTS

Section
1. Definition
2. Application of Act
3. Amendment of section 2 of Act of 2003
4. Amendment of section 10 of Act of 2003
5. Amendment of section 12 of Act of 2003
6. Amendment of section 13 of Act of 2003
7. Amendment of section 14 of Act of 2003
8. Hearing person pending decision relating to temporary transfer
10. Amendment of section 16 of Act of 2003
11. Failure to comply with time periods in section 15 or 16
12. Amendment of section 18 of Act of 2003
13. Amendment of section 19 of Act of 2003
15. Amendment of section 22 of Act of 2003
16. Amendment of section 23 of Act of 2003
17. Amendment of section 27 of Act of 2003
18. Extradition arrangements with third countries
19. Request for disapplication of rule of specialty
20. Guarantees surrounding custodial sentences imposed in absentia
22. Amendment of section 41 of Act of 2003
23. Amendment of section 42 of Act of 2003
25. Amendment of section 46 of Act of 2003
26. Repeals

[No. 30 of 2022]
27. Short title, collective citation, construction and commencement
ACTS REFERRED TO

Children Act 2001 (No. 24)
European Arrest Warrant Act 2003 (No. 45)
European Arrest Warrant Acts 2003 and 2012
Bill
entitled

An Act to give further effect to Council Framework Decision of 13 June 2002¹ on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision of 26 February 2009² amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial; for that and other purposes to amend the European Arrest Warrant Act 2003; and to provide for related matters.

Be it enacted by the Oireachtas as follows:

Definition


Application of Act

2. (1) The amendments to the Act of 2003 effected by this Act shall apply to a relevant arrest warrant and a true copy thereof, that is—

   (a) endorsed in accordance with section 13(2) of the Act of 2003,

   (b) produced to the High Court under section 14(4) of the Act of 2003, or

   (c) issued under section 33(1) of the Act of 2003,

   on or after the date on which this Act comes into operation.

(2) In this section—

   “relevant arrest warrant” has the same meaning as it has in the Act of 2003;

   “true copy” has the same meaning as it has in the Act of 2003.

Amendment of section 2 of Act of 2003

3. Section 2(1) of the Act of 2003 is amended by the insertion of the following definitions:

1  OJ No. L 190, 18.07.2002, p. 1
2  OJ No. L 81, 27.3.2009, p. 81
‘flag’ means the addition to an alert by the SIRENE Bureau of a Member State, the Republic of Iceland or the Kingdom of Norway, pertaining to a European arrest warrant, to the effect that an action to be taken on the basis of the alert in accordance with Article 24 or 25 of the Council Decision will not be taken in the State;

‘remand centre’ has the same meaning as it has in section 3 of the Children Act 2001;

‘SIRENE Bureau’, in relation to a Member State, the Republic of Iceland or the Kingdom of Norway, means the authority designated by the Member State, the Republic of Iceland or the Kingdom of Norway, as the case may be, in accordance with Article 7 of the Council Decision to perform the functions referred to in that Article;”.

Amendment of section 10 of Act of 2003

4. Section 10 of the Act of 2003 is amended—

(a) in paragraph (a)—

(i) by the substitution of “who” for “against whom”, and

(ii) by the substitution of “prosecute” for “bring proceedings”,

and

(b) in paragraph (b), by the substitution of “a prosecution” for “proceedings”.

Amendment of section 12 of Act of 2003

5. Section 12 of the Act of 2003 is amended by the substitution of the following subsection for subsection (3B):

“(3B) The written record of a document that is transmitted in accordance with subsection (3)(b) shall be deemed to be the document that was transmitted and, in the case of the further transmission of the document electronically by or on behalf of the Central Authority in the State to the High Court, the written record of the document that is further transmitted shall be deemed to be the document that was transmitted to the Central Authority.”.

Amendment of section 13 of Act of 2003

6. Section 13 of the Act of 2003 is amended by the substitution of the following subsection for subsection (2):

“(2) Upon an application under subsection (1), the High Court shall, in relation to a relevant arrest warrant, decide as soon as may be whether there has been compliance with the provisions of this Act, and, if so satisfied, shall, in accordance with the provisions of this Act, endorse the relevant arrest warrant for execution.”.
Amendment of section 14 of Act of 2003

7. Section 14 of the Act of 2003 is amended—

(a) in subsection (5), by the substitution of “shall be released from custody or the terms of his or her bail” for “shall be released from custody”, and

(b) by the addition of the following subsections after subsection (5):

“(6) The release of a person under subsection (5) shall not prevent his or her re-arrest and surrender if a European arrest warrant for his or her surrender is received by the Central Authority and subsequently endorsed by the High Court for execution.

(7) Where the arrest and surrender of a person named in an alert is sought, the High Court shall direct the Commissioner of the Garda Síochána to request the SIRENE Bureau concerned to add a flag to the alert where—

(a) the person has been remanded on bail,

(b) the High Court has refused to surrender the person in accordance with section 16, or

(c) the person has been released from custody or the terms of his or her bail in accordance with subsection (5).”.

Hearing person pending decision relating to temporary transfer

8. The Act of 2003 is amended by the insertion of the following section after section 14:

“14A.(1) Pending a decision by the High Court as to whether to execute a relevant arrest warrant where it has been issued in respect of a person who an issuing state intends to prosecute, the High Court, upon request, shall—

(a) arrange for the person to be heard in accordance with subsections (4) and (5), or

(b) subject to subsections (2) and (3), agree to the temporary transfer of the person to the issuing state.

(2) The conditions and the duration of a temporary transfer shall be determined by the High Court with the agreement of the issuing judicial authority.

(3) In the case of a temporary transfer, the person shall be permitted to return to the State to attend proceedings under this Act which relate to him or her.

(4) In the case of a hearing under subsection (1)(a), the person shall be heard by the High Court and shall be afforded the opportunity of obtaining or being provided with professional legal advice and representation at the hearing.
(5) A person shall be heard in accordance with the law of the State and under such conditions as may be agreed by the High Court with the issuing judicial authority.

(6) The President of the High Court may, in order to ensure the conditions referred to in subsection (2) or (5), as appropriate, are observed, assign a hearing under subsection (1)(a) to another judge of the High Court to take part in the hearing of the person as appropriate.

(7) In this section, ‘temporary transfer’ means the temporary transfer of a person the subject of a request under subsection (1) from custody in the State to the issuing state that made the request to that effect.”.

Amendment of section 15 of Act of 2003

9. Section 15 of the Act of 2003 is amended—

(a) in subsection (1)(c), by the deletion of “21A,”,

(b) in subsection (2)(c), by the deletion of “21A,”,

(c) by the substitution of the following subsection for subsection (3):

“(3) An order—

(a) under subsection (1) shall, subject to section 18, be made within the period of 10 days beginning on the date on which the person provides his or her consent to the High Court to his or her being surrendered to the issuing state, or

(b) under subsection (2) shall, following the period of time for which the person is remanded under section 14(3)(b)(ii) and subject to section 18, be made within the period of 10 days beginning on the date on which the person provides his or her consent to the High Court to his or her being surrendered to the issuing state.”,

(d) in subsection (3A), by the substitution of “subsections (5), (5C), (6) and (6A)” for “subsections (5) and (6)”,

(e) in subsection (4)(a), by the substitution of “within the period of 10 days referred to in paragraph (a) or (b), as applicable, of subsection (3)” for “at any time before his or her surrender to the issuing state”;

(f) in subsection (4)(b), by the substitution of “issuing state concerned and, where appropriate, that the person has renounced his or her entitlement not to be prosecuted, sentenced or otherwise deprived of his or her liberty for an offence committed prior to his or her surrender other than that for which he or she was surrendered,” for “issuing state concerned,“;

(g) in subsection (4)(c), by the substitution of “(or, if the person is not more than 18 years of age, in a remand centre)” for “(or, if the person is not more than 21 years of age, in a remand institution)”,

(h) by the substitution of the following subsection for subsection (5):
“(5) Where a person is brought before the High Court pursuant to subsection (4)(d)—

(a) the High Court shall, if satisfied that, because of circumstances beyond the control of the State or the issuing state concerned, the person was not surrendered within the time for surrender under subsection (3A) or, as the case may be, will not be so surrendered—

(i) notify the issuing judicial authority without delay and, with the agreement of that authority, fix a new date for the surrender of the person, and order that the person be detained in a prison (or if the person is not more than 18 years of age, in a remand centre) for a period not exceeding 10 days, pending the agreement of a date for the purpose of this subparagraph, and

(ii) order that the person be detained in a prison (or, if the person is not more than 18 years of age, in a remand centre) for a period not exceeding 10 days after the date fixed under subparagraph (i), pending the surrender,

(b) for so long as—

(i) the High Court is satisfied that the person will not be surrendered before the expiration of the period, specified in paragraph (a)(i) because of circumstances beyond the control of the State or the issuing state concerned, or

(ii) it appears to the Central Authority in the State that, because of circumstances beyond the control of the State or the issuing state concerned, that the person will not be surrendered on the expiration referred to in paragraph (a)(i) before that expiration, the High Court shall continue to apply the provisions of paragraph (a), and

(c) in any other case, the High Court shall order that the person be discharged.”,

(i) by the substitution of the following subsection for subsection (5A):

“(5A) A person to whom an order for the time being in force under subsection (5)(a) applies shall be surrendered to the issuing state concerned not later than 10 days after any new date fixed under that subsection.”,

(j) in subsection (5B), by the substitution of “(or, if the person is not more than 18 years of age, in a remand centre)” for “(or, if the person is not more than 21 years of age, in a remand institution)”,

(k) by the insertion of the following subsection after subsection (5B):

“(5C) (a) Where, in particular circumstances, the High Court has not, within 10 days beginning on the date the person provides his or her consent to the High Court to his or her being surrendered to the
issuing state, made an order under subsection (1) or (2) or has
decided not to make an order under subsection (1) or (2), the Court
shall, without delay, direct the Central Authority in the State to
tell the issuing judicial authority in relation thereto and of the
reasons therefor specified in the direction, and the Central
Authority in the State shall comply with the direction.

(b) The Court may extend the period of time referred to in paragraph
(a) for a further period of 30 days, where it considers it appropriate
and just in the circumstances to do so.”,

(l) by the insertion of the following subsection after subsection (6):

“(6A) If, in exceptional circumstances, the proceedings referred to in
subsection (6) have not been finally determined after the expiration of
40 days from the person’s consent, pursuant to subsection (3), the
High Court shall—

(a) notify the issuing judicial authority without delay and, with that
authority’s agreement, fix a new date for the surrender of the
person, and

(b) order that the person be detained in a prison (or if the person is not
more than 18 years of age, in a remand centre) for a period not
exceeding 10 days after the date fixed under subparagraph (i),
pending the surrender.”,

and

(m) by the insertion of the following subsection after subsection (7):

“(7A) The period of 40 days referred to in subsection (6A) consists of the
aggregate of the initial period of 10 days referred to in subsection (3)
and such further extension of 30 days as may be granted by the High
Court under subsection (5C)(b).”.

Amendment of section 16 of Act of 2003

10. Section 16 of the Act of 2003 is amended—

(a) in subsection (1)—

(i) by the substitution of “shall” for “may”,

(ii) by the substitution of “under section 13 or, subject to subsection (3),” for
“under section 13 or”, and

(iii) in paragraph (d), by the deletion of “21A,”,

(b) in subsection (2)—

(i) by the substitution of “shall” for “may”,

(ii) by the substitution of “under section 14 or, subject to section (3),” for “under
section 14 or”, and

(iii) in paragraph (c), by the deletion of “21A,”,
(c) by the substitution of the following subsection for subsection (3):

“(3) An order under subsection (1) or (2) shall, subject to subsection (3B) (b), be made not later than 60 days from the date of the person’s arrest.”,

(d) in subsection (3A), by the substitution of “subsections (3B), (5), (6), and (6A)” for “subsections (5) and (6)”,

(e) by the insertion of the following subsection after subsection (3A):

“(3B) (a) Where the High Court has not, upon the expiration of 60 days from the arrest of the person under section 13 or 14, made an order under subsection (1) or (2), it shall, without delay, so inform the issuing judicial authority.

(b) The High Court may extend the period of time specified under paragraph (a) for a further period of 30 days, where the Court considers it appropriate and just in the circumstances to do so.”,

(f) in subsection (4)(b), by the substitution of “(or, if the person is not more than 18 years of age, in a remand centre)” for “(or, if the person is not more than 21 years of age, in a remand institution)”,

(g) by the substitution of the following subsection for subsection (5):

“(5) Where a person is brought before the High Court pursuant to subsection (4)(c)—

(a) the High Court shall, if satisfied that, because of circumstances beyond the control of the State or the issuing state concerned, the person was not surrendered within the time for surrender under subsection (3A) or, as the case may be, will not be so surrendered—

(i) notify the issuing judicial authority without delay and, with the agreement of that authority, fix a new date for the surrender of the person, and order that the person be detained in a prison (or, if the person is not more than 18 years of age, in a remand centre) for a period not exceeding 10 days, pending the agreement of a date for the purpose of this subparagraph, and

(ii) order that the person be detained in a prison (or, if the person is not more than 18 years of age, in a remand centre) for a period not exceeding 10 days after the date fixed under subparagraph (i), pending the surrender,

(b) for so long as—

(i) the High Court is satisfied that the person will not be surrendered before the expiration of the period, specified in paragraph (a)(i) because of circumstances beyond the control of the State or the issuing state concerned, or

(ii) it appears to the Central Authority in the State that, because of circumstances beyond the control of the State or the issuing
state concerned, that the person will not be surrendered on the expiration referred to in paragraph (a)(i) before that expiration,
the High Court shall continue to apply the provisions of paragraph (a), and
(c) in any other case, the High Court shall order that the person be discharged.”;

(h) by the substitution of the following subsection for subsection (5A):

“(5A) A person to whom an order for the time being in force under subsection (5)(a) applies shall be surrendered to the issuing state concerned not later than 10 days after any new date fixed under that subsection.”;

(i) in subsection (5B), by the substitution of “(or, if the person is not more than 18 years of age, in a remand centre)” for “(or, if the person is not more than 21 years of age, in a remand institution)”;

(j) in subsection (6), by the substitution of “pending, provided that the proceedings comply with the time limit specified in subsection (3) or, where applicable, (3B).” for “pending.”;

(k) by the insertion of the following subsection after subsection (6):

“(6A) If, in exceptional circumstances, the proceedings referred to in paragraph (a) or (b) of subsection (6) have not been finalised within 90 days of the person’s arrest, pursuant to section 13 or 14, the High Court shall—

(a) notify the issuing judicial authority without delay, and Eurojust, and provide reasons as to why the proceedings have not yet been finalised, and with that authority’s agreement, fix a new date for the surrender of the person, and

(b) order that the person be detained in a prison (or, if the person is not more than 18 years of age, in a remand centre) for a period not exceeding 10 days after the date fixed under subparagraph (i) of subsection (5)(a), pending surrender.”;

(l) by the substitution of the following subsection for subsection (9):

“(9) If the High Court has not, after the expiration of 60 days from the arrest of the person concerned under section 13 or 14, made an order under subsection (1) or (2) or subsection (1) or (2) of section 15, or has decided not to make an order under subsection (1) or (2) as the case may be, it shall direct the Central Authority in the State to—

(a) inform the issuing judicial authority without delay, and

(b) where appropriate, Eurojust,
in relation thereto and of the reasons therefor specified in the direction, and the Central Authority in the State shall comply with the direction.”,
and

(m) by the insertion of the following subsection after subsection (10):

“(10A) The period of 90 days referred to in subsection (10) consists of the aggregate of the initial period of 60 days referred to in subsection (3) and such further extension of 30 days as may be granted by the High Court under subsection (3B).”.

Failure to comply with time periods in section 15 or 16

11. The Act of 2003 is amended by the insertion of the following section after section 16:

“16A. (1) The expiry of the period of 40 days referred to in section 15(7A) shall not—
(a) constitute a ground to refuse to surrender a person under this Act,
(b) prejudice the requirement under section 13(2) to make a decision as to whether to endorse a relevant arrest warrant for execution, or
(c) preclude the continued detention of a person under this Act.

(2) The expiry of the period of 90 days referred to in section 16(10A) shall not—
(a) constitute a ground to refuse to surrender a person under this Act,
(b) prejudice the requirement under section 13(2) to make a decision as to whether to endorse a relevant arrest warrant for execution, or
(c) preclude the continued detention of a person under this Act.”.

Amendment of section 18 of Act of 2003

12. Section 18 of the Act of 2003 is amended by the substitution of the following subsection for subsection (5):

“(5) Upon the making of an order under subsection (4)—
(a) the issuing judicial authority shall be notified of the making of the order without delay by the Central Authority for the purpose of agreeing a new date for the surrender of the person,
(b) the person shall be surrendered not later than 10 days after the agreed new date, and
(c) where a further date is required for the surrender of the person, the issuing judicial authority shall be notified of that fact without delay by the Central Authority and with the agreement of the issuing judicial authority, the High Court shall fix a new date for the surrender of the person.”.

Amendment of section 19 of Act of 2003

13. Section 19 of the Act of 2003 is amended—
(a) in subsection (1)—

(i) by the substitution of “the High Court, with the agreement of the issuing judicial authority,” for “the High Court”, and

(ii) by the deletion of “subject to such conditions as it shall specify,”,

and

(b) by the insertion of the following subsection after subsection (1):

“(1A) A direction under subsection (1) shall be made on the basis of conditions determined by the High Court, with the agreement of the issuing judicial authority, and such conditions shall be recorded in writing, and be binding on all of the relevant authorities, as appropriate, in the issuing state.”.

Amendment of section 21 of Act of 2003

14. Section 21 of the Act of 2003 is amended by the substitution of “remand centre” for “remand institution” in each place it occurs.

Amendment of section 22 of Act of 2003

15. Section 22 of the Act of 2003 is amended by the substitution of the following subsection for subsection (7):

“(7) The High Court shall, in relation to a person who has been surrendered to an issuing state under this Act, not later than 30 days after receipt of a request in writing from the issuing state in that behalf, consent to—

(a) proceedings being brought against the person in the issuing state for an offence,

(b) the imposition in the issuing state of a penalty, including a penalty consisting of a restriction of the person’s liberty, in respect of an offence, or

(c) proceedings being brought against, or the detention of, the person in the issuing state for the purpose of executing a sentence or order of detention in respect of an offence,

provided that the offence is not an offence for which a person could not by virtue of Part 3 be surrendered under this Act.”.

Amendment of section 23 of Act of 2003

16. Section 23(5) of the Act of 2003 is amended—

(a) by the substitution of “shall” for “may”, and

(b) by the substitution of “this Act, and not later than 30 days after the date of the request being made,” for “this Act,”.
Amendment of section 27 of Act of 2003

17. Section 27(1) of the Act of 2003 is amended by the substitution of “(or, if the person is not more than 18 years of age, in a remand centre)” for “(or, if he or she is not more than 21 years of age, in a remand institution)”.

Extradition arrangements with third countries

18. The Act of 2003 is amended by the insertion of the following section after section 30:

“30A.(1) Where a person has been extradited to the State from a third country and the person is protected by provisions of the arrangement under which he or she was extradited, the High Court shall request the third country to consent to the surrender of the person to the issuing state which issued the relevant arrest warrant.

(2) The periods of time referred to in section 15 or 16, as the case may be, shall commence from the date on which the consent of the third country is received by the High Court.”.

Request for disapplication of rule of specialty

19. The Act of 2003 is amended by the insertion of the following section after section 33:

“33A.(1) In this section, an ‘offence’ means, in relation to a person to whom a relevant arrest warrant applies, an offence (other than an offence specified in the relevant arrest warrant issued by the High Court in respect of which the person has been surrendered to the State pursuant to the relevant arrest warrant) under the law of the State committed before the person’s surrender to the State, but shall not include an offence consisting, in whole, of acts or omissions of which the offence specified in the relevant arrest warrant consists in whole or in part.

(2) A court may, upon an application made by or on behalf of the Director of Public Prosecutions, issue a request for the executing state’s consent to the prosecution of an offence or enforcement of a conviction, sentence or detention order against a person in respect of an offence where the court is satisfied that—

(a) a domestic warrant has been issued for the arrest of that person but has not been executed, and

(b) a term of imprisonment or detention of not less than 4 months has been imposed on the person in respect of the offence concerned and the person is required to serve all or part of that term of imprisonment or detention, or, as the case may be, the person would, if convicted of the offence concerned, be liable to a term of imprisonment or detention of 12 months or more than 12 months.

(3) A request under subsection (2) for the executing state’s consent to the prosecution of an offence or enforcement of a conviction, sentence or detention order against a person in respect of an offence shall specify—
(a) the name and nationality of the person to whom it relates,
(b) the name, address, fax number and e-mail address of—
   (i) the District Court Office for the district in which the District Court was sitting when it issued the warrant referred to in section 2(a),
   (ii) the Circuit Court Office of the county in which the Circuit Criminal Court was sitting when it issued the warrant referred to in section 2(a),
   (iii) the Central Office of the High Court, or
   (iv) the Registrar of the Special Criminal Court,
as may be appropriate,
(c) the offence to which the request relates including a description thereof,
(d) that a conviction, sentence or detention order is immediately enforceable against the person, or that a domestic warrant for his or her arrest has been issued in respect of that offence,
(e) the circumstances in which the offence was committed or is alleged to have been committed, including the time and place of its commission or alleged commission, and the degree of involvement or alleged degree of involvement of the person in the commission of the offence, and
(f) the following information, as applicable:
   (i) the penalties to which the person named in the relevant arrest warrant would, if convicted of the offence to which the request relates, be liable;
   (ii) where the person named in the request has been convicted of the offence specified therein and a sentence has been imposed in respect thereof, the penalties of which that sentence consists;
   (iii) where the person named in the request has been convicted of the offence specified therein but has not yet been sentenced, the penalties to which he or she is liable in respect of the offence.

(4) A request under subsection (2) may be issued in respect of one or more than one offence.

(5) In this section, ‘court’ means—
   (a) the court that issued the domestic warrant to which subsection (2) applies, or
   (b) the High Court.”.

Guarantees surrounding custodial sentences imposed in absentia

The Act of 2003 is amended by the insertion of the following section after section 35:
“35A. (1) Where a person is arrested on foot of a relevant arrest warrant issued by the High Court for service of a sentence or detention order imposed on him or her in absentia and the person has not received any information from the authorities in the State about the existence of criminal proceedings against him or her, the person may request a copy of the judgment which was the basis for the relevant arrest warrant and upon such a request being made, the High Court shall arrange for the judgment to be sent to the executing judicial authority without delay.

(2) Where a person is surrendered to the State pursuant to a relevant arrest warrant and is detained pending a retrial or an appeal and he or she did not appear in person at the proceedings resulting in the sentence or detention order in respect of which a relevant arrest warrant was issued, his or her detention pending a retrial or appeal shall be reviewed in accordance with the law of the State in relation to such detention.”.

Amendment of section 39 of Act of 2003

21. Section 39 of the Act of 2003 is amended by the substitution of the following subsection for subsection (2):

“(2) A person shall not be surrendered under this Act where he or she has, in accordance with the law of the State, become immune, by virtue of any amnesty or pardon, from prosecution or punishment in the State for the offence specified in the relevant arrest warrant issued in respect of him or her, where that offence is one that the State has jurisdiction to prosecute under its own law.”.

Amendment of section 41 of Act of 2003

22. Section 41 of the Act of 2003 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) A person shall not be surrendered under this Act for the purpose of his or her being proceeded against in the issuing state, or for the execution of a sentence order or detention order for an offence consisting of an act or omission that constitutes an offence in respect of which final judgment has been given in the State or a Member State provided that where a sentence of imprisonment was imposed on the person in respect of the second-mentioned offence in the State or Member State, as the case may be—

(a) the person has completed serving the sentence of imprisonment or period of detention, or

(b) the person is otherwise no longer liable under the law of the State or the Member State, as the case may be, to serve any period of imprisonment or detention in respect of the offence.”,
Amendment of section 42 of Act of 2003
23. Section 42 of the Act of 2003 is amended by the substitution of the following paragraph for paragraph (a):

“(a) a decision has been made to bring proceedings in the State against the person for an offence, or”.

Amendment of section 45 of Act of 2003
24. Section 45 of the Act of 2003 is amended—

(a) by the designation of that section as subsection (1),

(b) in subsection (1) by—

(i) the substitution of “The High Court may refuse to order the surrender of a person under this Act” for “A person shall not be surrendered under this Act”, and

(ii) the substitution of “Article 601 of the Trade and Cooperation Agreement” for “Article LAW.SURR.81 of the Cooperation and Trade Agreement”,

and

(c) by the addition of the following subsection after subsection (1):

“(2) Where a person has not received any information from the authorities in the State about the existence of criminal proceedings against him or her, he or she may request a copy of the judgment in relation to which the European arrest warrant or the Trade and Cooperation Agreement arrest warrant, as the case may be, in respect of the person has been issued and upon such a request being made the High Court shall without delay arrange for the issuing state to be informed of the request.”.

Amendment of section 46 of Act of 2003
25. Section 46 of the Act of 2003 is amended by—

(a) the designation of that section as subsection (1),

(b) the substitution of the following subsection for subsection (1):

“(1) A person who, by virtue of his or her holding any office or other position, enjoys a privilege or immunity under the law of the State from prosecution for any offence, shall not while he or she holds such office or position be surrendered under this Act.”,

and
(c) the addition of the following subsections after subsection (1):

“(2) Where the power to waive an immunity or privilege referred to in subsection (1)—

(a) is exercisable by a person in the State, the High Court shall request the person concerned to exercise the power to waive such privilege or immunity, or

(b) resides with an international organisation or a person in another state, the issuing judicial authority shall request the organisation or person concerned to waive the privilege or immunity.

(3) Section 15 or 16, as the case may be, shall apply to a person to whom subsection (1) applies as of the date on which the High Court is informed that the immunity or privilege, as the case may be, has been waived, as though that order were an order made under subsection (1) or (2) of section 15 or subsection (1) or (2) of section 16, as the case may be.”.

Repeals
26. The following provisions of the Act of 2003 are repealed:

(a) section 21A;

(b) subsection (8) of section 22;

(c) paragraph (b) of section 37(1);

(d) subsections (1) and (3) of section 39.

Short title, collective citation, construction and commencement
27. (1) This Act may be cited as the European Arrest Warrant (Amendment) Act 2022.

(2) The European Arrest Warrant Acts 2003 and 2012 and this Act may be cited together as the European Arrest Warrant Acts 2003 to 2022 and shall be construed together as one Act.

(3) This Act shall come into operation on such day or days as the Minister for Justice may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
An Bille um Barántas Gabhála Eorpach (Leasú), 2022

BILLE

(mar a tionscnaiodh)

dá ngairtear

Acht do thabhait tuilleadh eifeachta do Chinneadh Réime ón gComhairle an 13 Meitheamh 2002 maidir leis an mbarántas gabhála Eorpach agus leis na nósanna imeachta tabhairtha suas idir Ballstáit, arna leasú le Cinneadh Réime ón gComhairle an 26 Feabhra 2009 lena leasaitear Cinti Réime 2002/584/CGB, 2005/214/CGB, 2006/783/CGB, 2008/909/CGB agus 2008/947/CGB, agus lena ndéantar, ar an tsíl sin, cearta nóis imeachta daoine a theaghlach agus feidhmíú phrisionsábaí an ailseantas thiarthplaíathsigh a chothóth iad leis an breiththeanna arna dhadh an duine lena mbaineann a bheith as láthair ón triail; chun na críche sin agus chun críoch eile, do leasú an Acht um Barántas Gabhála Eorpach, 2003; agus do dhéanamh socruithe a dtaoibh.

Presented by the Minister for Justice,
10th March, 2022

European Arrest Warrant (Amendment) Bill 2022

BILL

(as initiated)

entitled

An Act to give further effect to Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial; for that and other purposes to amend the European Arrest Warrant Act 2003; and to provide for related matters.

Presented by the Minister for Justice,
10th March, 2022

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN, CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8, D08 XAO6.
Tel: 046 942 3100
r-phost: publications@opw.ie
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
MOUNTSHANNON ROAD, KILMAINHAM,
DUBLIN, D08 XAO6.
Tel: 046 942 3100
Email: publications@opw.ie
or through any bookseller.

€3.05