



Stream

Strengthening Trust in the
European Criminal Justice Area
through Mutual Recognition
and the Streamlined Application
of the European Arrest Warrant

Research Brief

Greece

Elisabeth Symeonidou – Kastanidou¹



This report was funded by the European Union's Justice Programme (2014-2020). It has been prepared in the context of the STREAM project (JUST AG 101007485). The content of this report represents the views of the author only and is his/her sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.

¹ Professor of Criminal Law, A.U.Th.

Introduction

The aim of this STREAM Research Brief for Greece is to provide an overview of the extent to which rule of law guarantees (and specifically judicial independence), as well as fundamental rights and procedural safeguards are taken into consideration by national judicial authorities when issuing and executing European Arrest Warrants (EAWs) further to the European Arrest Warrant Framework Decision (EAW FD).²

In particular, it will critically examine whether effective judicial protection is ensured when issuing an EAW, whether the judicial authorities take into account the protection of fundamental rights and rule of law guarantees, and whether access to effective remedies is granted.

It will also examine the way in which Greek authorities take into account the protection of fundamental rights when executing an EAW. To this end, it analyses a selection of judicial decisions on the execution of EAWs mentioned in the Periodic Country Report for Greece, as well as a significant number of additional decisions. They have been chosen because they show the extent to which the judicial authorities refer to the protection of fundamental rights and guarantees of the rule of law, in either general or specific terms. In doing so, the areas where legislative intervention at European level would be justified is highlighted.

A total of 332 judgments were examined (including 3 Council of State decisions, 221 from the Supreme Court, 7 from the Appeals-Chamber of Athens and one Appeals-Chamber of Thessaloniki judgment).

These decisions are judged in the light of the changes that have taken place in the EU context and in particular the rule of law and fundamental rights crisis occurring in several EU Member States over the last decade. Evaluation of them is also linked to the recent amendment of the national law on the EAW (Statute No. 3241/2004) in June 2022, which limited the general clause on respect for fundamental rights to only those enshrined in Article 6 of the EU Treaty, and abolished the parallel reference to fundamental rights as enshrined in the Greek Constitution. According to the Greek legislature, the amendment was deemed necessary 'given the EU origin of the relevant provisions'.

² Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, *OJ L 190*, 18.7.2002, p. 1.

Section I – Fundamental rights: primarily a matter for the issuing state?

1. Effective judicial protection

Effective judicial protection is primarily guaranteed through the independence of the issuing authorities. According to the legislation in force in Greece, an independent judicial authority is responsible for the entire process of issuing an EAW. The Public Prosecutor at the Court of Appeals of the locally competent court,³ who according to Greek law participates in the judicial function, is responsible for issuing the EAW. To become a prosecutor, examinations that are announced every year and conducted by an independent body must be passed. A prosecutor cannot be fired by the executive. The age limit for leaving the service is defined in the Constitution. According to the Constitution itself (Article 88), prosecutors are fully equivalent to judges in terms of their personal and functional independence. Admittedly, the Prosecutor's Office is hierarchically structured in the sense that each prosecutor receives orders from senior prosecutors, but each of them has complete freedom within the law in handling cases and expressing their opinion. Thus, the independence of Greek issuing authorities is an essential guarantee for the effective judicial protection of the wanted person.

2. Ensuring the rights of the wanted person when an EAW is issued

2.1. The general 'non-infringement' clause of fundamental rights

Greek law has incorporated the general declaration, which is also found in the EAW FD, on the non-infringement of fundamental rights when implementing provisions of the law on EAWs. Until recently, Greek judicial authorities were obliged to respect not only the fundamental rights enshrined in Article 6 of the TEU, but also those enshrined in the Greek Constitution, an addition that was characterised as 'bothersome' by the Commission. Its recent abolition should be considered correct, as otherwise 'islets' of increased protection are created in specific countries, which can be exploited by 'wanted' persons depending on the case.⁴

Still, as a major problem remains the fact that in the 2002 FD no condition of control of non-infringement of fundamental rights prior to the issuance of an EAW has been set. Thus, no such condition has been incorporated in the Greek law as well, and this leads to the result that the Greek authorities make no reference to safeguarding fundamental freedoms of the wanted person when issuing an EAW. They generally consider it their duty to issue an EAW whenever a national arrest warrant against a person living in another EU Member State has been issued.

2.2. Adherence to the principle of proportionality

Regarding EAWs issued to arrest the wanted person, according to Greek law these refer only to felonies and are issued only against persons against whom criminal proceedings have already been brought, so – as pointed out in the Country Report for Greece - it does not seem that any weighting on the part of the issuing authority would be conceivable.

3 Article 4 of Statute No. 3251/2004.

4 Tzanettis, Poinika Chronika 2019, 321.

However, this does not apply to EAWs issued for the execution of a penalty or security measure. In this case, issuing an EAW is allowed for all custodial sentences and security measures that have a maximum duration of at least four months (Article 5 of Statute No. 3251/2004), that is, even for penalties and measures for very short periods of deprivation of liberty.

In these cases, review of compliance with the principle of proportionality is not only conceivable but also necessary. In particular, when the convicted person has a known residence in another EU Member State, it is very likely that they will have the advantage of an option to serve their sentence or security measure in that State.⁵ This choice could be of paramount importance for the convicted person, since in many EU Member States short-term sentences are suspended regardless of any previous convictions, an option which was abolished in Greek law by Statute No. 4855/2021. In addition, while in our country the provision of community service as a main penalty has been suspended since August 2019, in most EU Member States this penalty is valid and is successfully served.

However, since the 2002 EAW FD does not contain an explicit proportionality clause for issuing an EAW, such clause has not been included in the relevant Greek law either. Moreover, no non-binding guidelines have been formulated in Greece in order to assist issuing judicial authorities as regards the verification of whether the principle of proportionality is observed. The Greek legislator has not followed the Council's recommendations – issued at the end of 2020 - for the drafting of such guidelines.⁶

2.3. Monitoring conditions of detention in Greek prisons

Greece has been condemned many times by the European Court of Human Rights (ECtHR) for violating Article 3 of the ECHR, due to detention conditions in its prisons. Therefore, when the surrender of a person through an EAW is requested (either for the trial of a criminal act that the person is accused of having committed or for serving a sentence), Greek authorities should first of all have checked that detention conditions in line with the minimum standards set by the Council of Europe and the EU are ensured.

This is of course not the case in practice. Greek judicial authorities know at the time they issue the EAW that the wanted person is very likely to be detained in conditions that offend human dignity. Only if - after the issuance of the EAW - the executing authorities ask for an affirmation that the requested person will be detained in conditions that do not violate their dignity, only then does the Minister of Justice undertake to ensure such conditions and provide a relevant assurance to the executing authorities.

2.4. Convictions in absentia

According to the current legislative framework, amended by Statute No. 4596/2019, the competent prosecutor is now obliged, when issuing an EAW for executing a sentence or a security measure, to clearly describe whether the trial took place in absentia, whether the decision was served properly, and so on. In addition, based on Article 6, paragraph 7 of Statute No. 3251/2004, upon the request of the 'wanted' individual, the competent prosecutor is obliged to send a copy of the decision by which a custodial sentence or security measure have been imposed, when this decision has not been delivered to the said individual. Delivery of the

5 In accordance with Statute No. 4307/2014, which incorporated FDs 2008/909/JHA, 2008/947/JHA and 2009/829/JHA.

6 Council conclusions "The European arrest warrant and extradition procedures – current challenges and the way forward" (2020/C 419/09), OJ C 419 /4.12.2020, p. 23, point 9.

copy is not considered as an official delivery of the decision and does not initiate the deadline for exercising legal remedies.

After these amendments, the rights of the person concerned have been granted effective judicial protection.

3. Remedies in the issuing state before and after the surrender

After issuing the EAW and before the surrender, the requested persons are not granted any legal remedy before the Greek authorities. Only after their surrender do they have recourse to remedies before a court, which depend on the type of EAW. If the EAW has been issued for the purpose of the defendant's presence at the trial, then the person is entitled to all the legal remedies of any defendant. If the EAW has been issued for enforcing a penalty or security measure that has already been imposed, the right of appeal or reversal, in case the decision has not become irrevocable, depends on the observance of the deadlines provided by law. There is a special provision only in the case where the decision has been rendered in absentia. In this case, the requested person may ask for the suspension or discontinuation of the execution of the decision, in accordance with the provisions of the Code of Criminal Procedure or other specific laws, not only when (s)he has lodged an appeal against the decision, but also when (s)he has requested a retrial.⁷

At this point, there seems to be a critical shortcoming: in the case of a national arrest warrant, the person subject to it has the right to challenge its lawfulness, but there is no similar legal remedy or right to review for the EAW, so that the requested person can ask for its withdrawal for lack of legality, violation of their fundamental rights or violation of the principle of proportionality.⁸

Section II - Protecting fundamental rights in the executing state

1. General “non-infringement” clause of fundamental rights and special provisions

1.1. The general clause for “non-infringement” of fundamental rights

As already mentioned in Section I, Greek law has incorporated the general declaration of non-violation of fundamental rights when issuing or executing an EAW, and this clause is consistently referred to in almost all the decisions that have been reviewed, when Greece acts as an executing state.

However, in practice, the reference to this clause does not normally imply an actual judicial review of the possible infringement of fundamental rights and does not lead to a refusal to execute the EAW, as it is not included in the mandatory or optional reasons for refusing its execution (see Articles 11 and 12 of Statute No. 3251/2004). In fact, in many decisions it is

7 Article 33a of the Statute No. 3251/2004.

8 Anagnostopoulos, pp. 357.

emphasized, with reference to the European Convention on Human Rights (ECHR), that the fundamental rights of the requested person are secured only *after* surrender has been carried out.⁹

Thus it seems there is a shortcoming here.

1.2. Special provisions

1.2.1. Risk of insulting human dignity

Article 1 of Statute No. 3251/2004 clearly states that no person should be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

Despite the fact that even this prohibition has not been included in the grounds for mandatory non-execution of the EAW, Greek courts as a rule review the merits of relevant requests. Still, no decision has been identified so far that prohibits the execution of the EAW because of a risk of offending human dignity in the issuing state. Even when the issuing state has been convicted for violating human dignity in detention facilities many times, Greek executing judicial authorities are not always willing to question the protection of prisoner's dignity in other EU Member States, nor do they consider it necessary to request safeguards from the issuing State. One could cite, as an example, a recent judgment of the Supreme Court of Greece, adopted in 2021, according to which, the sole fact that Bulgaria, during the period 1959 and 2020, was the fifth country (after Russia, Turkey, Ukraine and Poland) with the highest number of convictions for violating Article 5 of the ECHR (which includes pre-trial detention) was not enough to refuse the execution of the EAW or seek guarantees as to the conditions of detention of the requested person.¹⁰

1.2.2. Risk of discrimination

Discrimination based on gender, race, political or religious beliefs, and so on, is also considered a specific form of insult to human dignity and was the only one that had been rendered by the Greek legislator as a mandatory reason for non-execution of the EAW.¹¹ However, no judicial decision could be found where the judicial authorities refuse to execute an EAW based on this reason. Moreover, the possibility that the requested person will suffer discriminatory treatment in the issuing State was recently turned into a non-mandatory reason for refusal,¹² as is also envisaged in the EAW FD.

1.2.3. Violation of private and family life

The violation of private and family life, as a fundamental right (Article 8 ECHR) is also taken into account in Greek Law for the formulation of an optional ground for refusing to execute an EAW regarding the execution of a custodial sentence or security measure.¹³

9 See indicatively Greek Supreme Court, Judgements 1789/2018, 265/2019, 1384/2019.

10 Supreme Court of Greece, Judgement 1150/2021.

11 Article 11.e of Statute No. 3251/2004.

12 Article 31 of Statute No. 4947/2022.

13 Article 12.e of Statute No. 3251/2004.

This ground has been accepted by the Greek courts when the requested person maintains close ties with Greece. This is considered to be the case when a foreigner resides permanently in the country, has a family, works and is integrated into Greek society, having, therefore, a reasonable interest in serving the sentence or security measure, for which his surrender is sought, in Greece.

1.2.4. Compliance with the principle of proportionality

The principle of proportionality has been included in the provision of Article 25 of the Greek Constitution, as a general principle governing all law and must, therefore, be taken into account by both the legislator and the courts. According to this provision, any restrictions that may be imposed on fundamental rights must respect the *principle of proportionality*.

However, non-compliance with this principle has not been included in the EAW FD or the relevant Greek law as a ground for refusing the execution of the EAW. For this reason, Greek courts usually reject the requested person's claim regarding the violation of the proportionality principle, arguing that it refers to a measure taken by the authority of the issuing state, *which they cannot control*.¹⁴ This will continue as long as the EU legislature does not include a ground to refuse surrender in the EAW FD.

The specification of the elements to be assessed in order to find out whether the proportionality principle is respected is also important. A case that was dealt with by the Athens Court of Appeal in 2016¹⁵ highlights the ambiguity that exists on this point. In this case, Italy had requested the surrender of three young Greek citizens accused of being involved in damaging cars during riots. The acts described in the EAW were punishable in Greece with imprisonment of up to five years, while in Italy by eight to 15 years of imprisonment. The majority of the Council considered that the principle of proportionality was infringed in this case, because the offences referred to in the EAW were subject to substantially different criminal treatment in the issuing State (Italy) compared to the executing State (Greece). In the minority's view, on the contrary, there can be no breach of the principle of proportionality on the sole ground that the penalty provided for by the law of the issuing State is simply more severe than that envisaged in the executing State for the same offences. The important thing is that these offences were sufficiently serious in Italy, where they were committed. This divergence of views raises the further question of whether, in order to check compliance with the principle of proportionality, a comparison of sentences between the issuing and the executing States is also permissible.¹⁶

14 See indicatively Greek Supreme Court Judgement 304/2022.

15 Athens Court of Appeal Judgment 4/2016, Nomiko Vima 2016, p. 1453.

16 It is worth mentioning that - within the same period - the Greek Supreme Court, in another case, ruled that: "the principle of proportionality applies in the context of the legal order of each State". It added that: "The EAW is to be executed whenever the criminal act for which it has been issued constitutes a crime under Greek criminal law, regardless of its "legal classification" (Greek Supreme Court Judgement 854/2016).

1.2.5. Independence of the issuing authorities, as a condition for ensuring the right to a fair trial

Greek courts addressed the issue of the independence of the issuing authority during the first years of the implementation of the EAW FD. On this basis, they rejected a related surrender request,¹⁷ as stated in the Periodic Country Report for Greece. However, this decision was overturned shortly after, following an appeal brought before the Supreme Court.¹⁸ According to the Supreme Court, ‘the classification of the foreign authority as "judicial" belongs to the legal system of the Member State that issued the EAW’. Since then, national courts have interpreted the concept of judicial authority in a broad way, and have never questioned the independence of the prosecution authorities of other EU Member States.

Even after the Commission’s recommendation to Poland¹⁹ on undermining the independent functioning of its judiciary and the issuance of two judgments by the Court of Justice on the independence of Polish judges,²⁰ and even after activating the procedure in Article 7(1) TEU, in the context of which the Commission submitted a Reasoned Proposal to the Council to establish the existence of a systemic threat to the rule of law, the Greek courts did not question the independence of the Polish courts. It is worth mentioning the Supreme Court’s Judgment 363/2021, which, rejecting the relevant claim of the requested person, simply notes that ‘it cannot be established that the requested person will not have a fair trial and that they will not be tried by an independent court on the basis of the nature of the offence, the personal situation of the wanted person, and the context in which the EAW in question was issued’.

2. The two-step test

There was no reference to the two-step test adopted by the Court of Justice in any of the decisions reviewed in the framework of the STREAM programme.

Section III Protecting fundamental rights through horizontal and vertical cooperation

1. Cooperation between national authorities issuing and executing the EAW

1.1. When Greece acts as an EAW issuing State

As Greece has been condemned many times by the ECtHR for inhuman and degrading treatment of prisoners, questions have been raised from time to time about the situation in the prisons where the requested person is to be held.

17 Athens Court of Appeal 32/2005, Poinikos Logos 2005, p. 695.

18 Supreme Court judgment 1735/2005, Poinika Chronika 2006, p. 504.

19 Recommendation of 26.7.2017, C (2017) 1520 final.

20 CJEU cases C-619/18 and C-192/18.

Usually these questions are answered by the Minister of Justice, who personally assures the authorities of the executing State that the requested individual will be held in a prison that is not overcrowded.

There are also cases of bypassing the Public Prosecutor's Office and the Ministry. In these cases, the authorities of the executing State communicate directly with the director of the prison where the requested individual is to be detained.

The Member State that usually monitors detention conditions most closely is Germany (as well as former Member State, the UK).

1.2. When Greece acts as an EAW executing state

Greek authorities generally trust the penal systems of all EU Member States and they are prepared to execute an EAW, without requesting evidence regarding the independence of the issuing judicial authorities or questioning their commitment to the protection of fundamental rights and respect for the principles of fair trial. This is perhaps the reason why the two-step procedure has not been followed in any of the 332 decisions examined under the STREAM project, even though issues relating to the protection of fundamental freedoms in the issuing State were brought up in many cases.

This does not mean that Greek executing authorities do not take into account the relevant case law of the Court of Justice. As mentioned above, they always check whether the requested person could be subjected to inhuman or degrading treatment, but they do so on the basis of the evidence available to them, without contacting the authorities of the issuing State, even when they accept that *the general conditions of detention in the issuing State, are not in conformity with Article 3 of the ECHR and Article 4 of the Charter*.

As an example, one can cite the Supreme Court judgment 1365/2016. In this case, the judicial authorities of Italy had issued an EAW for the execution of the remaining sentence imposed to the requested person for the crimes of participation in a criminal organisation and money laundering. The individual claimed that detention conditions in Italy were not in conformity with Article 3 of the ECHR and Article 4 of the Charter. The Supreme Court ruled that 'there were no clear indications and concrete, reliable and precise evidence that the requested person would be exposed to a risk of inhuman or degrading treatment *because of the general conditions of detention in the issuing State, which were not in conformity with Articles 3 of the ECHR and 4 of the Charter*'.

2. Cooperation with the Court of Justice

According to the Court of Justice's website (curia.europa.eu), Greek authorities have never submitted a pre-trial question regarding the EAW or any other issue related to judicial cooperation in criminal cases.

REFERENCES

National Legislation

Statute No. 3251/2004 [“European arrest warrant, amendment of Statute No. 2928/2001 concerning criminal organizations, and other provisions”], published in the Official Gazette of 9 July 2004 (No. 127), entered into force on the same day.

Statute No. 1756/1988 [“Code of Organization of Courts and Status of Members of the Judiciary”], published in the Official Gazette of 16 September 1988 (No. 35), entered into force on the same day.

National Judgments

2022

- Supreme Court, Decision No. 61
- Supreme Court, Decision No. 197
- Supreme Court, Decision No. ΑΠ302
- Supreme Court, Decision No. ΑΠ 304
- Supreme Court, Decision No. ΑΠ 393

2021

- Council of State (Grand Chamber) 49
- Council of State (Grand Chamber) 50
- Supreme Court, Decision No. 56
- Supreme Court, Decision No. ΑΠ 467
- Supreme Court, Decision No. ΑΠ 475
- Supreme Court, Decision No. 498
- Supreme Court, Decision No. ΑΠ 535
- Supreme Court, Decision No. ΑΠ 586
- Supreme Court, Decision No. ΑΠ 721
- Supreme Court, Decision No. ΑΠ 753
- Supreme Court, Decision No. ΑΠ 799
- Supreme Court, Decision No. ΑΠ 1050
- Supreme Court, Decision No. ΑΠ 1127
- Supreme Court, Decision No. ΑΠ 1162
- Supreme Court, Decision No. ΑΠ 1171

- Supreme Court, Decision No. ΑΠ 1172

2020

- Supreme Court, Decision No. ΑΠ 35
- Supreme Court, Decision No. ΑΠ 62
- Supreme Court, Decision No. ΑΠ 125
- Supreme Court, Decision No. ΑΠ 284
- Supreme Court, Decision No. ΑΠ 329
- Supreme Court, Decision No. ΑΠ 338
- Supreme Court, Decision No. ΑΠ 451
- Supreme Court, Decision No. ΑΠ 481
- Supreme Court, Decision No. ΑΠ 491
- Supreme Court, Decision No. ΑΠ 603
- Supreme Court, Decision No. ΑΠ 755
- Supreme Court, Decision No. ΑΠ 873
- Supreme Court, Decision No. ΑΠ 909
- Supreme Court, Decision No. 1074
- Supreme Court, Decision No. 1391
- Council of State (Grand Chamber) 110

2019

- Supreme Court, Decision No. 199
- Supreme Court, Decision No. ΑΠ 265
- Supreme Court, Decision No. 417
- Supreme Court, Decision No. 418
- Supreme Court, Decision No. 563
- Supreme Court, Decision No. 578
- Supreme Court, Decision No. 698
- Supreme Court, Decision No. 830
- Supreme Court, Decision No. 948
- Supreme Court, Decision No. 1012
- Supreme Court, Decision No. 1360
- Supreme Court, Decision No. 1384
- Supreme Court, Decision No. 1385
- Supreme Court, Decision No. 1485
- Supreme Court, Decision No. 1486
- Supreme Court, Decision No. 1488
- Supreme Court, Decision No. 1528
- Supreme Court, Decision No. 1586
- Supreme Court, Decision No. 1659
- Supreme Court, Decision No. 1677
- Supreme Court, Decision No. 1690

- Supreme Court, Decision No. 1823
- Supreme Court, Decision No. 1824
- Supreme Court, Decision No. 1826
- Supreme Court, Decision No. 1870
- Supreme Court, Decision No. 1913
- Supreme Court, Decision No. 2003
- Supreme Court, Decision No. 2004
- Appeals Chamber of Athens, Decision No. 129
- Appeals Chamber of Athens, Decision No. 83

2018

- Supreme Court, Decision No. 103
- Supreme Court, Decision No. 305
- Supreme Court, Decision No. 363
- Supreme Court, Decision No. 939
- Supreme Court, Decision No. 1040
- Supreme Court, Decision No. 1041
- Supreme Court, Decision No. 1175
- Supreme Court, Decision No. 1273
- Supreme Court, Decision No. 1274
- Supreme Court, Decision No. 1365
- Supreme Court, Decision No. 1366
- Supreme Court, Decision No. 1439
- Supreme Court, Decision No. 1452
- Supreme Court, Decision No. 1555
- Supreme Court, Decision No. 1656
- Supreme Court, Decision No. 1699
- Supreme Court, Decision No. 1788
- Supreme Court, Decision No. 1789
- Supreme Court, Decision No. 1832
- Supreme Court, Decision No. 1939
- Supreme Court, Decision No. 2155
- Supreme Court, Decision No. 2190
- Supreme Court, Decision No. 2191

2017

- Supreme Court, Decision No. 135
- Supreme Court, Decision No. 163
- Supreme Court, Decision No. 280
- Supreme Court, Decision No. ΑΠ 450
- Supreme Court, Decision No. 1001
- Supreme Court, Decision No. 1282

- Supreme Court, Decision No. 1588
- Supreme Court, Decision No. 1606
- Supreme Court, Decision No. 1607
- Supreme Court, Decision No. 1613
- Supreme Court, Decision No. 1706
- Supreme Court, Decision No. 2058
- Supreme Court, Decision No. 2087
- Opinion of the Prosecutor of the Supreme Court, No. 5

2016

- Supreme Court, Decision No. 509
- Supreme Court, Decision No. 616
- Supreme Court, Decision No. 678
- Supreme Court, Decision No. 800
- Supreme Court, Decision No. 854
- Supreme Court, Decision No. 855
- Supreme Court, Decision No. 920
- Supreme Court, Decision No. 1185
- Supreme Court, Decision No. 1288
- Supreme Court, Decision No. 1325
- Supreme Court, Decision No. 1365
- Supreme Court, Decision No. 1390
- Supreme Court, Decision No. 1403
- Supreme Court, Decision No. 1404
- Supreme Court, Decision No. 1451
- Supreme Court, Decision No. 1505
- Supreme Court, Decision No. 1632
- Supreme Court, Decision No. 1644
- Supreme Court, Decision No. 1665
- Supreme Court, Decision No. 1750
- Supreme Court, Decision No. 1751
- Supreme Court, Decision No. 1832
- Supreme Court, Decision No. 1835
- Supreme Court, Decision No. 1855
- Supreme Court, Decision No. 1893
- Supreme Court, Decision No. 1894
- Appeals Chamber of Athens, Decision No. 1

2015

- Supreme Court, Decision No. 105
- Supreme Court, Decision No. 110
- Supreme Court, Decision No. 204

- Supreme Court, Decision No. 236
- Supreme Court, Decision No. 399
- Supreme Court, Decision No. 479
- Supreme Court, Decision No. 522
- Supreme Court, Decision No. 562
- Supreme Court, Decision No. 638
- Supreme Court, Decision No. 710
- Supreme Court, Decision No. 798
- Supreme Court, Decision No. 799
- Supreme Court, Decision No. 800
- Supreme Court, Decision No. 801
- Supreme Court, Decision No. 862
- Supreme Court, Decision No. 1109
- Supreme Court, Decision No. 1126
- Supreme Court, Decision No. 1263
- Appeals Chamber of Athens, Decision No. 5132

2014

- Supreme Court, Decision No. 274
- Supreme Court, Decision No. 408
- Supreme Court, Decision No. 522
- Supreme Court, Decision No. 851
- Supreme Court, Decision No. 879
- Supreme Court, Decision No. 907
- Supreme Court, Decision No. 966
- Supreme Court, Decision No. 1093
- Supreme Court, Decision No. 1120
- Supreme Court, Decision No. 1288
- Supreme Court, Decision No. 1289
- Supreme Court, Decision No. 1327

2013

- Supreme Court, Decision No. 118
- Supreme Court, Decision No. 200
- Supreme Court, Decision No. 392
- Supreme Court, Decision No. 776
- Supreme Court, Decision No. 850
- Supreme Court, Decision No. 1026
- Supreme Court, Decision No. 1107
- Supreme Court, Decision No. 1108
- Supreme Court, Decision No. 1179
- Supreme Court, Decision No. 1261

- Supreme Court, Decision No. 1262
- Supreme Court, Decision No. 1449
- Supreme Court, Decision No. 1539
- Supreme Court, Decision No. 166

2012

- Supreme Court, Decision No. 324
- Supreme Court, Decision No. 328
- Supreme Court, Decision No. 395
- Supreme Court, Decision No. 437
- Supreme Court, Decision No. 535
- Supreme Court, Decision No. 536
- Supreme Court, Decision No. 541
- Supreme Court, Decision No. 591
- Supreme Court, Decision No. 617
- Supreme Court, Decision No. 659
- Supreme Court, Decision No. 678
- Supreme Court, Decision No. 725
- Supreme Court, Decision No. 726
- Supreme Court, Decision No. 728
- Supreme Court, Decision No. 833
- Supreme Court, Decision No. 834
- Supreme Court, Decision No. 854
- Supreme Court, Decision No. 1003
- Supreme Court, Decision No. 1004
- Supreme Court, Decision No. 1021
- Supreme Court, Decision No. 1022
- Supreme Court, Decision No. 1104
- Supreme Court, Decision No. 1130
- Supreme Court, Decision No. 1169
- Supreme Court, Decision No. 1177
- Supreme Court, Decision No. 1476
- Supreme Court, Decision No. 1557
- Supreme Court, Decision No. 1580
- Supreme Court, Decision No. 1598

2011

- Supreme Court, Decision No. 47
- Supreme Court, Decision No. 200
- Supreme Court, Decision No. 253
- Supreme Court, Decision No. 320
- Supreme Court, Decision No. 477

- Supreme Court, Decision No. 626
- Supreme Court, Decision No. 627
- Supreme Court, Decision No. 651
- Supreme Court, Decision No. 666
- Supreme Court, Decision No. 799
- Supreme Court, Decision No. 800
- Supreme Court, Decision No. 814
- Supreme Court, Decision No. 908
- Supreme Court, Decision No. 1097
- Supreme Court, Decision No. 1139
- Supreme Court, Decision No. 1140
- Supreme Court, Decision No. 1267
- Supreme Court, Decision No. 1303
- Supreme Court, Decision No. 1312
- Supreme Court, Decision No. 1403
- Supreme Court, Decision No. 1454
- Supreme Court, Decision No. 1663
- Supreme Court, Decision No. 1760

2010

- Supreme Court, Decision No. 185
- Supreme Court, Decision No. 462
- Supreme Court, Decision No. 520
- Supreme Court, Decision No. 540
- Supreme Court, Decision No. 810
- Supreme Court, Decision No. 840
- Supreme Court, Decision No. 961
- Supreme Court, Decision No. 963
- Supreme Court, Decision No. 994
- Supreme Court, Decision No. 1083
- Supreme Court, Decision No. 1404
- Supreme Court, Decision No. 1408
- Supreme Court, Decision No. 1409
- Supreme Court, Decision No. 1410
- Supreme Court, Decision No. 1411
- Supreme Court, Decision No. 1436
- Supreme Court, Decision No. 1438
- Supreme Court, Decision No. 1439
- Supreme Court, Decision No. 1481
- Supreme Court, Decision No. 1545
- Supreme Court, Decision No. 1676
- Supreme Court, Decision No. 1700
- Supreme Court, Decision No. 1731

- Supreme Court, Decision No. 1973
- Supreme Court, Decision No. 1974
- Supreme Court, Decision No. 2006

2009

- Supreme Court, Decision No. 842
- Supreme Court, Decision No. 1006
- Supreme Court, Decision No. 1255
- Supreme Court, Decision No. 1266
- Supreme Court, Decision No. 1267
- Supreme Court, Decision No. 1309
- Supreme Court, Decision No. 1612
- Supreme Court, Decision No. 1697
- Supreme Court, Decision No. 1698
- Supreme Court, Decision No. 1808
- Supreme Court, Decision No. 1811
- Supreme Court, Decision No. 2166
- Supreme Court, Decision No. 2277

2008

- Supreme Court, Decision No. 142
- Supreme Court, Decision No. 216
- Supreme Court, Decision No. 244
- Supreme Court, Decision No. 382
- Supreme Court, Decision No. 383
- Supreme Court, Decision No. 394
- Supreme Court, Decision No. 415
- Supreme Court, Decision No. 775
- Supreme Court, Decision No. ΑΠ 822
- Supreme Court, Decision No. 1024
- Supreme Court, Decision No. 1030
- Supreme Court, Decision No. 1083
- Supreme Court, Decision No. 302
- Supreme Court, Decision No. 1813
- Supreme Court, Decision No. 2026
- Supreme Court, Decision No. 2027
- Supreme Court, Decision No. 2035
- Supreme Court, Decision No. 2133
- Supreme Court, Decision No. 2155
- Supreme Court, Decision No. 2252
- Supreme Court, Decision No. 2274
- Supreme Court, Decision No. 2372

- Supreme Court, Decision No. 2654

2007

- Supreme Court, Decision No. 124
- Supreme Court, Decision No. 125
- Supreme Court, Decision No. 306
- Supreme Court, Decision No. 342
- Supreme Court, Decision No. ΑΠ 359
- Supreme Court, Decision No. 380
- Supreme Court, Decision No. 558
- Supreme Court, Decision No. 833
- Supreme Court, Decision No. 1066
- Supreme Court, Decision No. 1594
- Supreme Court, Decision No. 1773
- Supreme Court, Decision No. 1836
- Supreme Court, Decision No. 1853
- Supreme Court, Decision No. 2030
- Supreme Court, Decision No. 2310

2006

- Supreme Court, Decision No. 109
- Supreme Court, Decision No. 1125
- Supreme Court, Decision No. 1674
- Supreme Court, Decision No. 1983

2005

- Supreme Court, Decision No. 591
- Supreme Court, Decision No. 857
- Supreme Court, Decision No. 924
- Supreme Court, Decision No. 1324
- Supreme Court, Decision No. 1735
- Supreme Court, Decision No. 1736
- Supreme Court, Decision No. 1737
- Supreme Court, Decision No. 1902
- Supreme Court, Decision No. 2135
- Supreme Court, Decision No. 2180
- Supreme Court, Decision No. 2483
- Appeals Chamber of Thess., Decision No. 1677
- Appeals Chamber of Dod., Decision No. 82
- Appeals Chamber of Dod., Decision No. 88
- Appeals Chamber of Athens, Decision No. 32

2004

- Supreme Court, Decision No. 1517

European legislation

European Council (2002), Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, OJ L 190, 18.7.2002.

European Council (2014), Directive 2014/41/EU of 3 April 2014 regarding the European Investigation Order in criminal matters, OJ L 130, 1.5.2014.

Charter of Fundamental Rights of the European Union

European Convention on Human Rights

Literature

Anagnostopoulos, I. (2008), *Ne bis in idem: European and International Perspectives*, P.N. Sakkoulas.

Chrysikos, D. (2003), *Extradition as an institution of Criminal Law: Analysis and Interpretation in light of the protection of human rights*, P.N. Sakkoulas.

Kaiafa-Gbandi, M. and Papakyriakou, Th. (2019a), *Elements of European Union Criminal Law*, 2nd ed., Sakkoulas.

Karanikolas S. (2012), *The impact of European criminal law on the Greek criminal legal order*, Nomiki Vivliothiki

Kyritsaki, I. (2009), *The European arrest warrant and the principle of dual criminality*, Sakkoulas.

Mouzakis, D. (2009), *The European arrest warrant*, Nomiki Vivliothiki.

Mylonopoulos, Ch. (2021), *International & European Criminal Law*, Nomiki Vivliothiki.

Orfanos, S. (2021), *European Arrest Warrant: The framework decision 2002/584/JHA and the Greek Statute transposing it (Statute No. 3251/2004)*, Nomiki Vivliothiki.

Tsiakoumaki, N. (2019), *European Arrest Warrant: Non-execution of the warrant under Statute No. 3251/2004*, Nomiki Vivliothiki.

Tzannetis, A. (2020), *Safeguarding the Fundamental Rights of the Requested Individual in the context of judicial cooperation in criminal matters in the EU*, P.N. Sakkoulas.

Chapters in edited volumes

Anagnostopoulos I. (2021), Proportionality Issues in European Arrest Warrant Proceedings – Three Stories from the Field, in: Billis E. / Knust N. / Rui J. P, Proportionality in Crime Control and Criminal Justice, Hart Publishing, pp. 337-358.

Chamilothoris, I. (2003), “Non-execution of a European Arrest Warrant on behalf of judicial authorities”, in: D. Perdakis (ed.), The European Arrest Warrant: A measure of elevated protection in the area of freedom, security and justice, Eurasia, pp. 25-32.

Naziris, Y. (2020), “The imposition of ‘European procedural dictates’ in the example of financial crime via offshore companies”, in: Criminal Procedure in the European Union: Trends and Challenges [Proceedings of the 8th Conference of the Hellenic Criminal Bar Association], Nomiki Vivliothiki, pp. 317-333.

Tsolka, O. (2016), “Trial ‘in absentia’ and legal remedies available to ‘absent’ defendants in light of the ECHR and the EU legal order”, in: Volume in honor of Christoforos Argyropoulos, Nomiki Vivliothiki, pp. 229-248.

Commentaries

Margaritis, M. and Margariti, A. (2020), Code of Criminal Procedure, Theory – Case-law, P.N. Sakkoulas.

Mouzakis, D. (2020), Articles 436-461 on judicial assistance, in: Margaritis, L. (ed.), The New Code of Criminal Procedure: Article by Article Interpretation of Statute No. 4620/2019, Vol. I (Articles 1-461), Nomiki Vivliothiki.

Sevastidis, Ch. (2021), Code of Criminal Procedure – Statute No. 4620/2019, Article-by-Article Interpretation, Vol. IV: Articles 320-461, Sakkoulas.

Voulgaris, D. (2013), “European Arrest Warrant”, in: Pavlou, S. and Samios, Th., Special Criminal Laws: Article by Article Interpretation, Vol. I, P.N. Sakkoulas.

Journal articles

Böse M. (2021), European Arrest Warrants and Minimum Standards for Trials *in absentia* – Blind Trust vs. Transnational Direct Effect?, EuCLR, Vol. 11, pp. 275-287.

Brakoumatsos, P. (2017), “Issues arising from the execution of European Arrest Warrants”, Poinike Dikaioyne, Vol. 20, pp. 601-606.

Charalambakis, A. and Tsiakoumaki, N. (2005), “Problems relating to the proper interpretation and application of the European arrest warrant”, Poinikos Logos, Vol. 5, pp. 759-772.

Fytrakis, E. (2006), "The European arrest warrant in its implementation: New developments, new concerns", *Poinike Dikaiosyne*, Vol. 9, pp. 210-220.

Kaiafa-Gbandi, M. (2019b), "Case-law of the ECJ and the European arrest warrant: Main orientation and modern trends" (Part I), *Poinike Dikaiosyne*, Vol. 22, pp. 1-12.

Kaiafa-Gbandi, M. (2017), "The recent case-law of the ECJ on criminal matters: The protection of fundamental rights in European Union law and its significance for Greek judicial authorities", *Poinika Chronika*, Vol. 67, pp. 561-572.

Kaiafa-Gbandi, M. (2004), "European arrest warrant: The provisions of Statute No. 3251/2004 and the transition from extradition to 'surrender'", *Poinike Dikaiosyne*, Vol. 7, pp. 1294-1310.

Kioupis, D. (2004), "Statute No. 3251/2004: A brief overview of its core features", *Poinikos Logos*, Vol. 4, pp. 972-976.

Klip, A. (2022), *The European Arrest Warrant, from Mutual Recognition to Mutual Supervision*, *EuCLR*, Vol. 12, pp. 82-100.

Mouzakis, D. (2012), "Practical problems arising from the application of Statute No. 3251/2004 concerning the European arrest warrant (Based on the recent case-law of the Greek Supreme Court and the European Court of Justice)", *Poinike Dikaiosyne*, Vol. 15, pp. 57-67.

Mylonopoulos, Ch. (2007), "The abolition of the dual criminality requirement as an abuse of right and the case-law of the ECJ on the European Arrest Warrant", *Poinikos Logos*, Vol. 7, pp. 1-3.

Naziris, Y. (2018), "The interplay between statutory limitations as grounds of mandatory non-execution of a European arrest warrant and the exception to the requirement of double criminality under art. 10(2) of Statute No. 3251/2004 [Thoughts on the application of the argument a maiore ad minus]", *Poinike Dikaiosyne*, Vol. 21, pp. 21-37.

Nikoloudis, P. (2005), "European arrest warrant: When and how is it possible to 'surrender' a national under Statute No. 3251/2004", *Poinika Chronika*, Vol. 55, pp. 385-388.

Riegel, R. / Sonntag, M. (2022), *The Council conclusions "The European Arrest Warrant and Extradiction Procedures – current Challenges and the Way Forward"*, *EuCLR* Vol. 12, pp. 66-81.

Symeonidou-Kastanidou, E. (2005), "Execution of a European Arrest Warrant against a Greek national", *Poinike Dikaiosyne*, Vol. 8, pp. 1312-1315.

Symeonidou-Kastanidou, E. (2005), "The European Arrest Warrant and the surrender of Greek nationals for the purpose of prosecuting them abroad", *Poinike Dikaiosyne*, Vol. 8, pp. 587-590.

Symeonidou-Kastanidou, E. (2004), "The statute concerning the European arrest warrant and the combating of terrorism", *Poinike Dikaiosyne*, Vol. 7, pp. 773-786.

Togias, S. (2013), "The European arrest warrant and the extradition of foreign nationals. Modern trends in case-law", *Poinike Dikaiosyne*, Vol. 16, pp. 1154-1164.

Tsolka, O. (2002), "European Arrest Warrant: An ambitious measure towards the furtherance of judicial cooperation in the European Union framework", *Poinika Chronika*, Vol. 52, pp. 103-110.

Tzannetis, A. (2019), "The national (constitutional) identity and the violation of fundamental rights as grounds of non-execution of a European Arrest Warrant: The dialogue among the ECJ and national Supreme Courts on the relationship between EU law and national Constitutions", *Poinika Chronika*, Vol. 69, pp. 321-337.

Vasilakakis, E. (2006), "9 + 1 thoughts on the European arrest warrant", *Poinike Dikaiosyne*, Vol. 9, pp. 204-209.

Voulgaris, G. (2018), "The execution of a European Arrest Warrant in practice", *Poinike Dikaiosyne*, pp. 1224-1237.

Weyembergh, A. / Pinelli, L. (2022), Detention Conditions in the Issuing Member State as a Ground for Non-execution of the European Arrest Warrant: State of Play and Challenges Ahead, *EuCLR Vol. 12*, pp. 25-52.

Zimianitis, D. (2004), "The implementation of the European Arrest Warrant in light of the protection of individual rights", *Dikaiomata tou Anthropou*, Vol. 24, pp. 1195-1211.

Zimmermann, F. (2022), Concerns regarding the Rule of Law as a Ground for Non-execution of the European Arrest Warrant: Suggestions for a reform, *EuCLR Vol. 12*, pp. 4-24.

Availability of EAW-related jurisprudence

All decisions of the Supreme Court, which functions as an appellate body in the execution of the EAW, are posted on the its website and are publicly accessible.

Any acts of the Prosecutor at the Court of Appeal when issuing an EAW remain unpublished, given that there is only one person involved in their issuance (i.e. the Prosecutor), and no lawyers are involved at that stage. Upon contacting the Athens Appeals Prosecutor's Office, however, reassurance was given that the prosecutor's decisions regarding the issuance of an EAW are accessible to 'anyone who refers to the publications section of the prosecutor's office'.

The same applies to decisions by Appeals Chambers that rule in the first instance on the execution of an EAW. Only a limited number of these decisions is available in databases or in legal periodicals (sometimes with commentaries), normally upon the initiative of an attorney involved in the case (often, decisions by Appeals Chambers are cited in books, articles, or commentaries as 'unpublished').

No issues have however arisen from the way the decisions are published, although the non-publication of EAWs issued by the Greek authorities does not facilitate monitoring of the relevant judicial decisions.