

Executive Summary: Greece

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Executive Summary

Issuing Procedures

- Under Greek law, the authority to place an individual under arrest presupposes an active prosecution for a specified act or a conviction, as well as a detailed decision by a judicial organ in the strict sense, namely an investigating judge, a pre-trial chamber or a court, depending on the stage of the proceedings.
- If the defendant is believed to reside in an EU member-State other than Greece, the title for arrest will be conveyed to the Public Prosecutor's Office at the Court of Appeal: in the event of an active prosecution, the title (usually a warrant issued by the investigating judge following a concurrent opinion by a district prosecutor) will be conveyed to the Public Prosecutor's Office in the district of which lies *ratione loci* jurisdiction to adjudicate the offense; in the event of a conviction, the judgment will be conveyed to the Public Prosecutor's Office in the district of which lies that authority to execute the sentence.
- The competence to issue a European Arrest Warrant belongs to the Prosecutor for the Court of Appeal, who shall attach all necessary documents thereto and may include a request for the seizure of evidence and/or other objects in the possession of the wanted individual.
- An EAW for the purpose of a criminal prosecution may only be issued if the requested act is punishable (under Greek law) with a custodial sentence the upper limit of which is at least twelve months.
- An EAW for the purpose of executing a custodial sentence (following a criminal conviction) may only be issued if the sentence imposed is of a minimum duration of four months.

Executing Procedures

- EAWs addressed to Greek judicial authorities are first conveyed to the Prosecutor for the Court of Appeal in the region where the requested individual resides (or, absent knowledge of his/her whereabouts, to the Public Prosecutor's Office for the Court of Appeal of Athens).
- The said Prosecutor oversees the arrest of the requested individual and is competent to decide whether to impose provisional detention or other measures ensuring the arrestee's presence.
- If the requested individual consents to his/her surrender, the case is referred to an Appellate Judge, who decides on the execution of the EAW absent a right to an appeal; otherwise, the case is referred to an Appeals Chamber, which decides on the execution of the EAW, subject to appeal before a Chamber of the Supreme Court.
- The Greek Statute governing EAW procedures contains an exhaustive list of mandatory and non-mandatory grounds to decline the execution of the EAW; these grounds (especially those of the former kind) shall apply regardless of the requested individual's consent (or lack thereto).
- The decision to execute an EAW is strictly judicial in nature; the Minister of Justice will only be involved in the event of a concurrent request by a third (non-EU member) State.
- In the event of an affirmative decision to execute the EAW, the applicable Statute provides for specific deadlines to complete the requested individual's surrender to the issuing State.

Key interpretation and implementation challenges

- In terms of the issuing authority: Greece entrusts competence for the issuance of EAWs to the Public Prosecutor for the Court of Appeal, i.e. a judicial authority based on domestic law; as an executing State, Greece (via its competent judicial authorities) has questioned the ability of 'administrative' authorities of other member States to issue EAWs, yet this line of case-law has been abandoned during the last few years.
- In terms of proportionality: as an issuing State, Greece will not seek an arrest prematurely, while the minimum threshold required to issue an EAW ensures respect for the principle of proportionality; as an executing State, Greece has only scantily declined to surrender individuals on the premise of proportionality concerns.
- Greek executing authorities do not engage in any review concerning the 'maturity' of the case in the issuing State; in any event, the length of detention pending surrender is confined based on specific deadlines, which are normally observed.
- Any perceived 'idiosyncrasies' of Greek criminal law (either substantive or procedural) do not appear to have an impact on the execution of EAWs by Greek judicial authorities. A broad array of offenses are exempted from the dual criminality requirement, while even grounds of refusal related to 'public order' (such as statutory limitations) appear to be waived in the interest of furthering judicial cooperation.
- With respect to fair trial rights, Greek judicial authorities tend to confine their power of review by consistently holding that any procedural rights of the requested individual are only engendered subsequent to the execution of an EAW (hence the individual's surrender) and are therefore opposable to the authorities of the issuing State alone.

- Greek judicial authorities also appear reluctant to employ mandatory grounds of refusal in order to decline the execution of an EAW, even where the requested individual invokes fear of maltreatment in the issuing State.
- Although there are non-mandatory grounds of refusal designed to ensure the continuing presence of individuals belonging to certain categories in Greece, these grounds are rarely relied upon by Greek judicial authorities to decline the execution of EAWs. Greek judicial authorities also appear reluctant to employ mandatory grounds of refusal in order to decline the execution of an EAW, even where the requested individual invokes fear of maltreatment in the issuing State.
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