



EUROPEAN COOPERATION IN CRIMINAL MATTERS

TEXT 3

EUROPEAN ARREST WARRANT

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Justičná akadémia
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Key terms (*English – Czech*)

- | | |
|--|--|
| <p>1. <i>An aggregate sentence:</i>
souhrnný (celkový) trest</p> | <p>As set out below a court can impose an aggregate sentence where there are multiple offences. However, in doing so the court has to indicate not only that an aggregate sentence is to be imposed but also sentences that would have been imposed for each individual offence.</p> |
| <p>2. <i>appellant:</i>
dovolaatel</p> | <p>a person who asks a superior court to review a decision</p> |
| <p>3. <i>bail:</i>
kauce</p> | <p>some form of property deposited or pledged to a court to persuade it to release a suspect from jail</p> |
| <p>4. <i>double jeopardy:</i>
zákaz dvojího trestání</p> | <p>A second prosecution for the same offense after acquittal or conviction or multiple punishments for same offense</p> |
| <p>5. <i>dual criminality:</i>
oboustranná trestnost</p> | <p>a suspect can be extradited from one country to stand trial for breaking a second country's laws only when a similar law exists in the extraditing country</p> |

MATERIAL FOR Day 1: EUROPEAN ARREST WARRANT:

AIM: READ ABOUT EAW AND USE RELEVANT VOCABULARY WITHIN MEANINGFUL CONTEXT

Target: Having gone through the material you will be able to ANSWER questions related to EAW using correct and common lexical items and correct grammar structures:

Task 1: Read and discuss the sentences containing phrases in bold:



Example: The **European arrest warrant** adopted in 2002 replaces the **extradition** system by requiring each national judicial authority (the executing judicial authority) to recognise, ipso facto, and with a minimum of formalities, **requests for the surrender** of a person made by the judicial authority of another Member State (the issuing judicial authority).

Q1: What was adopted in 2002?

Q2: What system was the new instrument adopted in 2002 supposed to replace?

Q3: What kind of request should the executing judicial authority recognise?

ACT

Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States [See amending act(s)].

SUMMARY

<p>The European arrest warrant adopted in 2002 replaces the extradition system by requiring each national judicial authority (the executing judicial authority) to recognise, ipso facto, and with a minimum of formalities, requests for the surrender of a person made by the judicial authority of another Member State (the issuing judicial authority).</p>	
<p>The framework decision entered into force on 1 January 2004 and replaced the existing texts in this area.</p>	
<p>However, Member States remain at liberty to apply and conclude bilateral or multilateral agreements insofar as such agreements help to simplify or facilitate the surrender procedures further.</p>	
<p>The application of such agreements should in no case affect relations with Member States that are not parties to them.</p>	
<p>General principles</p>	



The framework decision defines "European arrest warrant" as any judicial decision issued by a Member State with a view to the arrest or surrender by another Member State of a requested person, for the purposes of:	
conducting a criminal prosecution;	
executing a custodial sentence;	
executing a detention order.	
The warrant applies in the following cases:	
- where a final sentence of imprisonment or a detention order has been imposed for a period of at least four months;	
- for offences punishable by imprisonment or a detention order for a maximum period of at least one year.	
If they are punishable in the issuing Member State by a custodial sentence of at least three years, the following offences, among others, may give rise to surrender without verification of the double criminality of the act: terrorism, trafficking in human beings, corruption, participation in a criminal organisation, counterfeiting currency, murder, racism and xenophobia, rape, trafficking in stolen vehicles, and fraud , including that affecting the financial interests of the Communities.	

For criminal acts other than those mentioned above, **surrender may be subject to the condition** that the act for which surrender is requested constitutes an offence under the law of the executing Member State (double criminality rule).

The European arrest warrant **must contain information on the identity of the person concerned, the issuing judicial authority, the final judgment, the nature of the offence, the penalty**, etc. (a specimen form is attached to the framework decision).



Procedures

As a general rule, the **issuing authority** transmits the European arrest warrant directly to the executing judicial authority. Provision is made for cooperation with the Schengen Information System (SIS) and with Interpol. If the authority of the executing Member State is not known, the issuing Member State will receive assistance from the European Judicial Network (BG) (CS) (ET) (GA) (LV) (HU) (MT) (PL) (RO) (SK) (SL).

All Member States may take necessary and proportionate **coercive measures** vis-à-vis requested persons. When an individual is **arrested, he/she must be made aware of the contents of the arrest warrant** and is entitled to the services of a lawyer and an interpreter.

In all cases, the **executing authority** may decide to keep the individual in custody or to release him/her subject to certain conditions.

Pending a decision, the executing authority (in accordance with national law) **hears the person concerned**. The executing judicial authority must take a final decision on execution of the European arrest warrant no later than 60 days after the arrest. It then immediately notifies the issuing authority of the decision taken.

Any period of detention arising from execution of the European arrest warrant must be deducted from the total period of deprivation of liberty imposed.

The arrested person may **consent to his or her surrender**. **Consent may not be revoked** and must be given voluntarily and in full knowledge of the consequences. In this specific case, the **executing judicial authority** must take a final **decision on execution of the warrant** within a period of ten days **after consent has been given**.

Grounds for refusal to execute a warrant and refusal to surrender



A Member State may refuse to execute a European arrest warrant if:

final judgment has already been passed by a Member State upon the requested person in respect of the same offence (**ne bis in idem principle**);

the offence is covered by an amnesty in the executing Member State;

the person concerned **may not be held criminally liable** by the executing State owing to his/her age.

In certain other circumstances (e.g. when criminal **prosecution or punishment is statute-barred** according to the law of the executing Member State or when a final judgment has been passed by a third State in respect of the same act), the executing Member State may refuse to execute the arrest warrant. It may also refuse to execute the warrant if the person concerned did not personally appear at the trial where the decision was rendered, unless the appropriate safeguards were taken. In all cases grounds for the refusal must be given.

On presentation of certain information (relating to the arrest warrant, the nature of the offence, the identity of the person concerned, etc.), each Member State must permit the transit through its territory of a requested person who is being surrendered.

The warrant is translated into the official language of the executing Member State and sent by any means capable of producing written records and allowing the executing Member State to establish its authenticity.

Practical, general and final provisions

Since 1 January 2004, **extradition requests** received by Member States have been dealt with in accordance with the **national measures** adopted to implement the framework decision.

Lexical Items:



European arrest warrant
requests for the surrender of a person
judicial authority of another Member State

extradition system

the issuing judicial authority
the executing judicial authority)
to recognise ipso facto
framework decision
to enter into force
to remain at liberty
to facilitate surrender
final sentence of imprisonment
a detention order
to impose - to be imposed
offences punishable by
to arrest or surrender a requested person
surrender without verification
to conduct a criminal prosecution
to execute a custodial sentence
to execute a detention order
to give rise to
double criminality of the act
terrorism
trafficking in human beings
corruption



**participation in a criminal organisation,
racism and xenophobia
rape
trafficking in stolen vehicles
fraud**

counterfeiting currency

to be subject to the condition that ...

to contain information on

the **identity of the person concerned**

the **issuing judicial authority**

the **final judgment**

the **nature of the offence**

the **penalty**

coercive measures

to be made aware of the contents of the arrest warrant

to consent to his or her surrender

to revoke consent

ne bis in idem

to be **statute-barred**

Task 2: video : listening, speaking and practising procedural vocabulary

AIM: listening and comprehension, practising vocabulary related to offences and punishment, court proceedings, court hearing

Target: you will be able to listen to the short extract of a fiction based court hearing and discuss it within meaningful context using relevant and correct legal vocabulary

DISCUSSION:

What does Howard find in Sheldon's drawer?

What is Sheldon's explanation of the unopened mail in his drawer?

Who was the summons for traffic violation addressed to?



Who is the car owner and why doesn't the car owner admit liability for the traffic offence? Why does the person driving the car refuse to admit liability and pay the fine for the road traffic offence?

Does your national law recognise liability of the driving instructor over the liability of the learner?

How does the car owner offer to remedy the situation?

Is the learner - driver prepared to admit liability?

Who is in charge of drafting the defense for the concerned case?

What does the offender instruct his friends to do as he pleads his case?

Task 3: Transcript: (read and do a role play)

Sheldon's mail:

Howard: Sheldon, why do you have all these **unopened pay checks** in your desk?

Sheldon: Because most of the things I'm planning to buy haven't been invented yet.

Howard: But there must be thousands of dollars here. Why don't you put it in the bank? Sheldon: I don't trust banks. I believe that when the robots rise up, **ATMs will lead the charge.**

Howard: You've also got something from the Pasadena **Municipal Court.**

Sheldon: Undoubtedly yet another snide response to my repeated letters complaining that the flags in front of the **courthouse** are flying in the wrong order. From left to right, it's supposed to be federal, state, and then city of Pasadena.

Penny: I'm sorry. You sent more than one letter about that?

Sheldon: It bothers me.

Howard: Sheldon, this is a **summons.**

Sheldon: A **summons for what?**

Howard: Looks like you ran a red light on Marengo Avenue at 9:30 p.m. on November 16. They got you on a traffic camera. Nice picture.

Sheldon: November 16? Penny, that's the evening you fell in your bathtub and I had to drive you to the emergency room.



Penny: No, it isn't.

Sheldon: Yes, it is.

Penny: No, it isn't.

Sheldon: Penny, I have an eidetic memory. Also, that's a picture of you in the passenger seat holding your dislocated shoulder.

Penny: Mmm, no, it isn't.

Sheldon: Okay, then why is a **summons for a traffic violation committed in your car, bearing your license plates**, coming to me?

Penny: Okay, look, they sent me the **ticket**. I told them I wasn't driving and they were all, if it wasn't you, who was it?

Sheldon: So you betrayed me?

Penny: No! It wasn't a betrayal. It was more of a **can't afford any more points on my license**. I already have to buy my insurance from this place in the Cayman Islands.

Sheldon: But the only reason I was driving your car was because you were in distress and I was rescuing you.

Penny: Yes, yes, look, and now you have a photo to remember that heroic day.

Leonard: It's not that big a deal. You just go down to the court on Thursday and you pay the fine.

Sheldon: I'm not going to pay a fine. That would imply I'm guilty.

Howard: You are guilty. (Raj's shirt plays the gavel sound from Law & Order) That one I liked.

Sheldon: I am not guilty. I only have a learner's permit, Penny was the teacher. When the light turned yellow she said go, go, go, so I went, went, went.

Penny: Sheldon, I'm sorry. I'll be happy to reimburse you for the fine. You know, as soon as I get a part in a movie or my own TV series.

Sheldon: You don't need to reimburse me because I'm not paying. On Thursday, I will have my day in court and justice will be done. In fact, I'm going to begin preparing my defence right now.



Howard: Okay, he's going to jail.

Leonard (after Raj whispers to him): Oh, that's right. Thursday is Stan Lee Day.
Sheldon: Now you see what you've done? Because of you, we're all going to miss Stan Lee.

Leonard: Whoa! What do you mean all?

Sheldon: Well, you're my friends. You'll be standing by my side, supporting me, feeding me legal precedents, and if you had the upper body strength, carrying me out on your shoulders when I'm victorious.

Leonard: Yeah, okay. No.

Sheldon: Are you saying that you will not stand beside me as I plead my case?

Leonard: That's what I'm saying.

Sheldon: Howard?

Howard: Wow. Uh, Stan Lee, or you in court? Uh, if this was Sophie's Choice it would've been a much shorter movie. No.

Sheldon: Raj? You'll be there, won't you? (Shirt plays "incorrect" quiz sound) All right, then, my so-called friends have forsaken me. So, I guess it'll just be me and my eyewitness.

Penny: Oh, balls.

Sheldon: Please try to wear something appropriate. It won't help my case if the judge is busy trying to read the word Juicy scrawled across your buttocks.

Task 4: Preparation for the Court Proceedings: watch and discuss

Scene: Penny's door.

Sheldon: (Knock, knock, knock) Penny. (Knock, knock, knock) Penny.

Penny (opening door): (Knock, knock, knock) Penny.

Sheldon: That's just wrong.

Penny: All right, let's go.

Sheldon: Wait, hold on. Before we get to the **courthouse**, I'd like to call on your skills as an actress.



Penny: What is this?

Sheldon: I've taken the liberty of **scripting your appearance on the witness stand** because, let's face it, you're somewhat of a loose cannon. Now, don't worry, it's written in your vernacular. So shall we rehearse?

Penny: Do I have a choice?

Sheldon: Well, of course you have a choice. Although we live in a deterministic universe, each individual has free will. Now, sit down. I call your attention to the events of November 16. Do you remember that date?

Penny (reading): Darn tootin', I do, if the court will excuse my homespun, corn-fed Nebraska turn of phrase.

Sheldon: Excellent. Go on.

Penny: The reason that date is, like, so totally fixed in my memory is that I had the privilege to be witness to one of the most heroic acts I've ever seen in, like, ever.

Sheldon: And who performed that heroic act?

Penny: Why, you did, sir. You. Dr. Sheldon Cooper, and may I add, it is a privilege to know you.

Sheldon: There's no need for compliments, this court is only interested in the facts.

Penny: But it is a fact that it's a privilege to know you. Totally. A teardrop rolls down my cheek?

Sheldon: Only a suggestion. A catch in your throat would work just as well.

Penny (pretending to be close to tears): But it is a fact that it's a privilege to know you. Totally.

Sheldon: Maybe you should put on your Juicy pants again

The Courtroom Scene:

Scene: The courtroom.

Judge: Pay the cashier. Sheldon Cooper?

Sheldon: Good morning, Your Honour. Dr. Sheldon Cooper appearing in pro se. That is to say, representing himself.



Judge: I know what it means. I went to law school.

Sheldon: And yet you wound up in traffic court. Anyway, if it would please the court, I'd like to begin with an opening statement.

Judge: The court would advise you to make it quick, as the court had a dicey-looking breakfast burrito this morning and just took an Imodium.

Sheldon: Very well, a quick opening statement. Like a milking stool, my case rests on three legs. I will demonstrate that I was improperly instructed in driving by a woman whose lack of respect for society borders on the sociopathic. I will argue that the emergency meta-legal doctrine of *quod est necessarium est licitum*, that which is necessary is legal. But first, I will raise a Sixth Amendment issue. I'm unable to confront my accuser, a non-human entity, to wit, a camera. So, to sum up, improper instruction, *quod est necessarium est licitum*, Sixth Amendment. My milk stool is complete.

Judge: Impressive.

Sheldon: Thank you.

Judge: Guilty. Pay the cashier.

Sheldon: I object. You're completely ignoring the law.

Judge: No, I'm following the law. I'm ignoring you.

Sheldon: Really? I would point out that I am at the top of my profession, while you pre-side over the kiddy table of yours.

Judge: Dr. Cooper, before I find you in contempt and throw you in jail, I'm going to give you a chance to apologize for that last remark.

Sheldon: I am a scientist. I never apologize for the truth.

Scene: A police cell. Three people sit on a bench inside. Sheldon points at the one on the end.: Sheldon: That's my spot.

Key to exercises: Video comprehension answers:

Howard finds unopened letters from court in Sheldon's drawer.

Sheldon's explanation of the unopened mail is that he has written to the court house ,any times about the flags in from of the Court house flying in the wrong order.



The summons for traffic violation were addressed to Penny.

Links:

Key terminology: https://quizlet.com/_2cr4cq

Council Framework Decision 2002/584/JHA :<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0584:en:HTML>

Obtaining and executing arrest warrant study set: <https://quizlet.com/p36m6>

Sheldon's day in court video:<http://youtu.be/qOfxGROK9jA>

Transcript for the video based on: <https://bigbangtrans.wordpress.com/series-3-episode-16-the-excelsior-acquisition/>