

# SELF-ASSESSMENT TEST

## TOPIC 10

1. The European Arrest Warrant is issued:

a/ only when the requested person is known to be in a country of the European Union

b/ when it is suspected that the person has escaped, even if his/here whereabouts are unknown

c/ only when a final judgment has been rendered convicting the requested person

d/ either in order to prosecute a person, or when a conviction or acquittal has been rendered

The EAW can be issued to request a person for the purposes of prosecution or enforcement of a judgment when their whereabouts are unknown.

2. The European Arrest Warrant

a/ should include a copy of the judicial decision ordering arrest or a final judgment

b/ does not require additional documentation

c/ may include any evidence or documents the issuing body sees fit

f/ must include the legal texts that show the offence corresponds to one of the categories on the list

In theory, the EAW is sufficient for the person to be arrested.

3. The European Arrest Warrant

a/ may be issued for serving a sentence provided it is not a life sentence

b/ may be issued for service a sentence provided it has not been handed down *in absentia*

c/ may be issued for serving a sentence consisting of at least 4 months' imprisonment in the issuing state

d/ may be issued for serving a sentence consisting of at least 4 months' imprisonment in the issuing and executing states

It may be issued even if the sentence was handed down *in absentia* or for a life sentence and the sentence threshold only has to be reached in the issuing state

4. In the event several persons have committed several criminal offences together and they are all being prosecuted in the same proceedings, it will be necessary to issue

a/ a separate EAW for each person

b/ a separate EAW for each offence

c/ the issuing body will draft a joint EAW for all requested persons describing all the offences

d/ an EAW cannot be issued in the case of multiple participants

Even if they are being prosecuted in single proceedings, the EAW can only be issued for a single person, although he/she may be sought for several offences

5. When the whereabouts of the requested person are unknown, the EAW will be transmitted:

a/ via the Justice Ministry or a central authority

b/ via Eurojust

c/ via the European Judicial Network

d/ via Interpol and/or SIRENE

if the whereabouts of the person are unknown, the EAW cannot be sent directly to the other judicial authority. The central authority is only authorised to provide assistance, like Eurojust and the European Judicial Network. The EAW is disseminated outside the state via Interpol and SIRENE.

6. The central authority of each state:

- a/ may revoke an EAW on humanitarian grounds or if it feels that the person's fundamental rights will not be respected in the executing state
- b/ is obliged to gather information before deciding on surrender
- c/ may postpone surrender indefinitely if there are logistical problems
- d/ none of the above

The central authority only assists the judicial authority and has no decision-making powers

7. The description of the offence

- a/ is not necessary if the offence can be said to belong to the list of 32 categories on the form and if the maximum term envisaged exceeds 3 years
- b/ is necessary in any event
- c/ is not necessary if a final judgment has been rendered
- d/ is only required where there are grounds for non-execution

The description of the offence is always necessary, although the legal classification is not if it is one of the 32 offences and the maximum sentence exceeds 3 years

8. If a judgment has been rendered *in absentia* and a sentence of imprisonment has been handed down:

- a/ the executing judicial authority will always have to refuse to execute the European Arrest Warrant
- b/ the executing judicial authority may refuse to execute the European Arrest Warrant as an optional ground for non-execution
- c/ the executing judicial authority must always demand a guarantee that a new trial will be held and the requested person's rights will be respected
- d/ the issuing judicial authority may issue a European Arrest Warrant for enforcement of the sentence imposed

The executing authority may condition surrender on the provision of a guarantee of a new trial at which the rights of the requested person will be

respected unless the requested person was summoned in person or otherwise informed of the date and place of the hearing

9. Prior to the decision on the European Arrest Warrant
  - a/ the issuing authority must wait for the final decision
  - b/ the issuing authority may ask that the requested person make a statement, but not intervene in the hearing
  - c/ the issuing authority may ask that the requested person make a statement and be present at the hearing in the manner agreed with the executing authority
  - d/ the issuing authority may request any procedures it sees fit and the executing authority will decide whether to accept or reject them

The issuing judicial authority may ask that the requested person make a statement in its presence. In this case, it will be performed in the manner agreed with the executing authority. The executing authority will have to take the requested person's statement or transfer them temporarily and must accept one of the two options.

10. In order to request the surrender of a person requested for prosecution who is located in another European Union state
  - a/ issuing a European Arrest Warrant is the only option
  - b/ either a European Arrest Warrant or an extradition request may be issued
  - c/ temporary transfer may be requested in the context of the Convention on mutual assistance in criminal matters between the Member States of the European Union
  - d/ a European Arrest Warrant will be issued if applicable in the issuing and executing state

The European Arrest Warrant replaces extradition in Europe only if it has been transposed in the issuing and executing states and the facts correspond to a date that is later than the one declared in the executing state. If the facts are earlier, they person must be requested via extradition.