



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 1 September 2011

13706/11

**CRIMORG 123
COPEN 202
EJN 102
EUROJUST 124**

NOTE

from: Portuguese delegation
to: Delegations

No. prev. doc.: 7593/2/07 REV 2 CRIMORG 59 COPEN 37 EJN 8 EUROJUST17

Subject: Evaluation report on the fourth round of mutual evaluations "the practical application of the European Arrest Warrant and corresponding surrender procedures between Member States"
- Report on Portugal

With reference to the reminder letter of the President of the General Secretariat of the Council of 29th of July 2011 sent to the Head of GENVAL Delegation, Mr António Folgado, and as regards the implementation of the recommendations set forth in the Portuguese Evaluation Report on the Fourth Round of Mutual Evaluations on the Practical Application of the European Arrest Warrant, we are pleased to inform you on the adoption of the following measures, as described in the annex to the present letter.

Yours sincerely,

João Ribeiro
Director of the International Affairs Department

Evaluation Report of Portugal (Doc 5085/1/07 REV1 CRIMORG5 COPEN3 EJN1 EUROJUST1) – Implementation of recommendations

Recommendations to Portugal as an issuing Member State:

- Recommendation 1

To take steps to ensure greater compliance with the requirements set out in the Attorney-General's references to provide copies of all EAWs issued by Portugal to the CA and to the national member of Eurojust. (See 7.2.1.1.).

As a means to fulfill this recommendation, the Attorney General's services on international cooperation in criminal matters recommend to the courts, on a case by case basis, that a copy of the warrant be sent to the EUROJUST, as a supplement to the general information contained in Reference 15/2004, which already determines that this communication be made.

- Recommendation 2

To formulate a written request to the General Secretariat of the Council of the EU seeking rectification of the Official Journal in respect of the linguistic error contained within the Portuguese text of Article 5 paragraph 1 of the FD.

The Portuguese Ministry of Justice has sent a written request to the General Secretariat of the Council for rectification of the linguistic error contained within the Portuguese text of Article 5 paragraph 1 already in 2007.

- Recommendation 3

To undertake such residual measures as may be necessary to complete the process of providing Public Prosecutors with appropriate and direct access to the SIS (See 7.2.1.6.).

In order to implement this recommendation, a Working Group was set up under the aegis of the Attorney General with the aim to identify the profile of the magistrates (Public Prosecutors) that should have access to the Schengen Information System. The process of providing Public Prosecutors with access to SIS is currently under completion.

- Recommendation 4

To put guidance in place to ensure that the Portuguese SIRENE bureau notifies all of Portugal's relevant issuing JAs in cases where additional EAWs arise in respect of the same requested person.

This recommendation has been implemented by the Portuguese SIRENE Bureau.

- Recommendation 5

To ensure that the EAW handbook is published electronically on the HABILUS case management system utilized by Portugal's Court Clerks.

In order to implement this recommendation, the Attorney General's Office has developed a thematic area within the website of the Documentation and Comparative Law Office displaying information for practitioners on the European Arrest Warrant, including the EAW handbook (<http://mandado.gddc.pt>).

- Recommendation 6

That a review of Portugal's implementing legislation be undertaken so that those Articles which have been implemented contrary to the FD, or which are lacking in legal certainty, may be reconsidered and redrafted accordingly.

The Portuguese Directorate-General for Justice Policy has recently prepared the revision of Law no. 65/2003 (transposing into domestic law the EAW), taking into consideration the recommendations and observations of the evaluation report. The draft legislation is currently under appreciation of the Minister of Justice.

- Recommendation 7

That consideration be given to creating a rota of Public Prosecutors to enable greater provision of appropriate on-site legal advice within the SIRENE bureau.

This recommendation was taken into account by the Attorney General's Office that has appointed a Public Prosecutor to provide assistance and legal advice to the SIRENE Bureau.

- Recommendation 8

That an invitation be issued to Portugal's executing JA requesting that it contribute, in a manner deemed appropriate, to the permanent informal working party on the EAW.

Regarding this recommendation, the General Attorney's Office has invited the High Council of the Judiciary (*Conselho Superior da Magistratura*) to take part in the activities of the Working Party on the EAW, and a judge has subsequently been appointed.
