



# Beyond Surrender

*Putting human rights at the heart  
of the European Arrest Warrant*

Fair

Trials

**“[P]roblems have however arisen ... resulting from gaps in the [European Arrest Warrant] Framework Decision such as failing to explicitly include fundamental rights safeguards or a proportionality check.”**

- *European Parliament resolution of 27 February 2014 with recommendations to the Commission on the review of the European Arrest Warrant*

**“The Commission does not share the Parliament’s view that improving the European arrest warrant system requires a revision of the Framework Decision.”**

- *28 May 2018 response of the European Commission to the European Parliament Resolution*

**“[T]he Framework Decision is not to have the effect of modifying the obligation to respect fundamental rights.”**

- *Judgment of the Court of Justice of the European Union of 5 April 2016 in the case of Pál Aranyosi and Robert Căldăraru*

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## Executive Summary

In 2004 the European Arrest Warrant (“EAW”) started to operate in the EU as a fast-track system for the arrest and extradition (or “surrender”) of a person to stand trial or serve a prison sentence. It is based on the principle of mutual recognition, which means that decisions in one EU Member State will be carried out in all others. Since then, concerns have frequently been raised about the human impact of this measure.

In February 2014, the European Parliament called on the European Commission to propose reforms to the EAW. It was concerned that the overuse of the EAW and its lack of explicit human rights safeguards and proportionality checks was undermining its credibility. Reform was needed to prevent miscarriages of justice, long periods of pre-trial detention and other human rights violations.

The Commission did not share the Parliament’s view and Member States had limited political appetite to deal with the problem. In response the Commission stated that the process to enact legislation guaranteeing suspects fair trial rights, begun by Member States in 2009, would largely resolve the EAW’s problems. Thus, no reform proposal was presented, though measures further strengthening prosecutorial powers have been.

While the fair trial measures enacted since 2009 have improved respect for the right to a fair trial in Europe, these ground-breaking standards do not address some key issues with the EAW system: its disproportionate use, the over-use of pre-trial detention, and extraditions of persons into prison conditions violating the right to be free from ill-treatment.

In April 2016, the EU’s Court of Justice stepped in on this latter point, ruling that people should not be extradited if there is a risk of ill-treatment. It required the country deciding on the extradition to hold off until information has been received from the country requesting the extradition that assures it that ill-treatment will not occur.

That same month, Fair Trials and partners in four countries launched a project to document what happens to people after they are extradited. This work is now complete. This document sets out its key findings.

### Beyond Surrender – the project and its findings

“Beyond Surrender” is an EU-wide project looking at the use of the EAW and its impact on the life of extradited people and their families. It is led by the global criminal justice watchdog, Fair Trials, with partners in four countries – **Romania** (APADOR-CH), **Poland** (Helsinki Foundation for Human Rights), **Lithuania** (Human Rights Monitoring Institute), and **Spain** (Rights International Spain) – and the support of Fair Trials’ Legal Experts Advisory Panel, a network of over 180 of the leading criminal law-focussed law firms, academic institutions and civil society organizations from across all 28 EU Member States.

The purpose of the project was not to conduct a detailed assessment of the legal complexities of the EAW system examining its operation from academic or legal practitioner perspectives, work that has been carried out by a variety of different actors. Rather, the project sought to understand to what extent the concerns identified with the operation of the EAW system can be seen to have real impact on people. Understanding how people are treated after surrender helps us understand where reforms are needed. Human stories place those needs in a real and relatable context.

As explained below, the project finds that the problems with the EAW system continue to this day, with considerable impact on the lives and rights of ordinary people. The new laws enacted by the EU guaranteeing suspects’ rights, while extremely beneficial to improving fair trials at the national level, have not been sufficient. The problems with the EAW go beyond the rights guaranteed in those laws, and the laws themselves still need better implementation. Similarly, while also highly welcome, the case law of the EU’s Court of Justice has not been sufficient to resolve the EAW’s flaws.

**250+**  
Practitioners surveyed

**220+**  
Case files reviewed

**30+**

Lawyers and suspects interviewed

## About the European Arrest Warrant

The EAW is the EU's flagship crime fighting instrument. It was enacted in 2002 through an EU Framework Decision in the wake of the 9/11 attacks amid concerns that existing extradition laws were too cumbersome to effectively tackle serious cross-border crimes.

Since 2004, the EAW has been used to surrender:

- a terrorist involved in Paris attacks caught in Belgium
- an attacker of the Brussels Jewish Museum arrested in France
- a failed London bomber caught in Italy
- a German serial killer tracked down in Spain
- a suspected drug smuggler from Malta surrendered by the UK
- a gang of armed robbers sought by Italy whose members were arrested in 6 different EU countries

Source: European Commission

An EAW is issued by a judge or prosecutor in one EU Member State (the "issuing Member State") to seek the arrest and surrender of a person present in another (the "executing Member State") to stand trial or serve a sentence. It may be issued for a person:

- Who is accused of a serious crime, such as murder, terrorism, or human trafficking, or has been sentenced to a custodial sentence of at least three years for one of these crimes; or
- Who is accused of an offence for which the maximum penalty is at least 1 year of prison or has been sentenced to a prison term of at least 4 months, so long as the offense exists in both countries.

The European Commission has advised Member States that an assessment of the "proportionality" of using an EAW must be conducted before issuing it, checking whether using the EAW is truly necessary and that there are no other less harmful options that could be used instead.

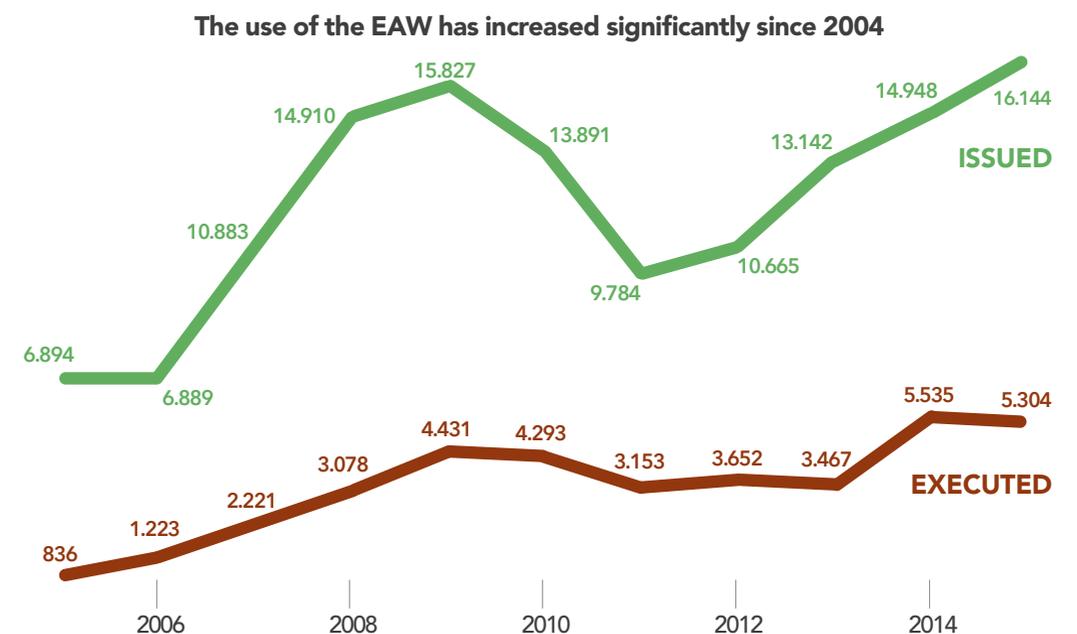
Once issued, there are very limited grounds, mostly purely procedural, on which the country receiving the EAW may refuse to execute it (i.e. extradite the person). As such, the EAW is designed to be highly efficient.

## Facts and figures about the European Arrest Warrant

Since the EAW system came into force in 2004, the number of EAWs issued has increased significantly. However, while the average person is extradited speedily, the gap between the number of requests for extradition made (i.e. EAW issued) and the number of people extradited (i.e. EAWs executed) remains vast. This is caused in part because of concerns within certain EU Member States, particularly those that regularly receive requests, that the EAW has been inappropriately issued or that execution will result in human rights violations.



Source: European Commission



Source: European Commission

## What criticisms have been made of the European Arrest Warrant?

The EAW does not explicitly permit refusals to extradite even when the country receiving the EAW believes that its use is disproportionate or the surrender could result in human rights violations. The system is based on the flawed assumption that a Member State can have complete faith that the EAW will only ever be used in appropriate cases and that, once extradited to any other Member State, a person's human rights will be respected. Because this is not true, the emphasis on efficiency in the EAW system has come at the expense of human rights. And because the system is so efficient it is being used even when it is not meant to be, for example, early in the proceedings to interview someone before a decision to prosecute the person has even been made.

The following major human rights problems with the EAW have been highlighted by Fair Trials and others:

- EAWs issued for minor offences and without proper consideration of whether extradition is proportionate, notwithstanding the severe human and financial costs involved;
- People being extradited despite serious and well-founded human rights concerns, such as clear risks of violations of the right to liberty caused by the overuse of pre-trial detention, the right to be free from torture and ill-treatment caused by poor prison conditions across the EU, and the right to a fair trial;
- Judicial decisions not to execute an EAW not being respected by the issuing State, resulting in repeated arrests and hearings in other countries; and
- People sought under EAWs not being provided with legal representation in the issuing State as well as the executing State.

These concerns, and others, were reflected in the European Parliament's 2014 resolution. A 2016 study by the Council of Bars and Law Societies of Europe ("CCBE") concluded that by-and-large they were still valid, as did a 2017 study by the European Parliamentary Research Service ("EPRS"), and a 2018 report by the European Criminal Bar Association ("ECBA"). Finished in 2018, the Beyond Surrender project has reinforced those findings.

## Key Finding No. 1: The EAW continues to be overused and is destroying the lives of ordinary people in the process

Our research has found that the EAW continues to be used to investigate people and prosecute petty crimes. People continue to be surrendered to face stiff penalties for conduct that would not be punished nearly as harshly in the country they are present in and without regard to the impact that the surrender will have on the person's livelihood, family and mental or physical health. These cases contrast significantly with the stated purpose of the EAW system, which was designed primarily to fight serious, complex cross-border crimes.

In addition, our research shows that EAWs continue to be used to investigate people (contrary to the aims of the EAW) despite the fact that the EU has long had rules that would ease cross-border evidence gathering in criminal cases. In 2009, the EU enacted legislation to create a European Evidence Warrant to make it easier to collect and share evidence across borders, working on much the same principles as the EAW. In 2014, this was strengthened with legislation creating a European Investigation Order ("EIO") which grants new powers to judges and prosecutors to seek evidence across borders, including encouraging the use of videoconferencing technology to interview people during criminal investigations.

But these measures are underused compared to the EAW and we continue to see requests to extradite people for police interviews in situations where a case is far from being ready for trial. During our research, we documented cases where families have been split apart for lengthy periods with suspects unnecessarily held in pre-trial detention outside of their countries of residence. We have also documented cases where people were surrendered, interviewed and immediately released without being provided the resources necessary to make their way home.

## Used to prosecute petty crime

The EAW is regularly used to surrender people who committed small offences, often years before, and who have built a new life in another country. Research conducted in **Poland**, for example, shows that the catalogue of situations in which the EAW may be issued is wide. This includes driving under the influence of alcohol, drug possession or small theft. The EAW may be executed even if the convicted person fulfils the duties imposed by the judgement, does not avoid police supervision, finds a job and pays the fine. Similar cases were documented in **Lithuania**, **Romania** and **Spain**, such as the surrender to Spain of a person alleged to have stolen two radio CD players.

In **Lithuania**, 2009 amendments to the rules governing the EAW have limited its use for minor crimes. And Lithuanian Supreme Court case law has limited the application of orders that people must cover the cost of their extradition transportation to cases where people have absconded. However, cases indicate that these practices continue.

### Case study

### Examples from Lithuania

#### **Kaunas District Court, case no. 1-128-246/2017, 17 May 2017**

In 2016 a Lithuanian national was surrendered from the United Kingdom to be prosecuted for a small-scale theft, i.e. a mobile phone and bottle of perfume. The person spent almost 2 months in detention in the United Kingdom, awaiting surrender, and another one and a half month in Lithuania. After the trial he ended up receiving a sentence of 3 months 8 days, the exact number of days, he spent in pre-trial detention.

#### **Kaunas District Court, case no. 1-270-573/2017, 16 January 2016**

In another case from 2016, a Lithuanian national, surrendered from Germany, was ordered to pay the 1.836 euros of his transportation expenses by the court. The costs were awarded despite the fact that the person moved to Germany for employment rather than to abscond, and he was unaware of the criminal investigation.

## A mechanism designed to tackle complex cross-border crime is being used for petty crimes

### Case study

### Jozef

#### Surrendered from Hungary to Romania

Jozef is a farmer who was sentenced to four years in prison for cutting down trees in a forest with some of his friends to give to their families as Christmas trees. They were caught by the police who confiscated the Christmas trees, took statements, and released them. They didn't say anything about a fine or prison sentence.

Later, Jozef was stopped in a routine check after taking a job in Hungary. The police in Hungary told him that there was an EAW in his name and they took him to jail and held him for nearly two months before surrendering him to Romania.

Jozef is a member of the Hungarian ethnic minority group in Romania, does not speak fluent Romanian and is illiterate. After being surrendered to Romania, he was not provided



**“It’s really difficult. It’s hard to be so far away. I miss the children.”**

with any documents explaining why he had been arrested or was under investigation, and was not provided with an interpreter through which that information could have been conveyed to him orally.

Eventually he was convicted and imprisoned for four years for theft. He continues to serve his sentence today in a heavily overcrowded prison cell.

**“They told me there was an international warrant on my name, from Romania. Then they took me into custody and then to prison. I didn’t know that there was a lawsuit against me.”**

## Used to investigate people

The EAW is being used to transfer people from one country to another, sometimes thousands of kilometres from their homes, family and jobs, only to question them. Public authorities are organising costly transfers which often end up with a half-an-hour interview, despite the availability of other ways to interview the person, such as video-conferencing.

In **Poland** prosecutors have no discretion to abandon prosecution of a crime and must take all available measures against the suspect, no matter how minor the crime. This leads to EAWs being used automatically and for inappropriate purposes.

In **Spain**, despite an extensive search, we could find no record of courts using, prior to issuing an EAW, a measure to obtain an interview with a suspect through other means, such as video-conferencing. On the contrary, we learnt of two cases of people extradited from Portugal to Spain where the suspect had been unable to convince a Spanish court to allow video-conferencing instead of a surrender for an interview. We also found cases of surrender to Spain and from Spain to other countries, such as Germany, merely for interviews, after which the surrendered person was released with no means of getting home.

With the introduction of the European Investigation Order (“EIO”) prosecutors and judges now have no reason to issue EAWs when they want to interview someone. However, this practice continues. Fair Trials and its Legal Experts Advisory Panel continue to learn of cases where an EAW is issued for the purposes of conducting an interview. This includes cases in which the authorities in **Germany** and **France** have requested the extradition of suspects (from the UK and Spain respectively) for the sole purpose of conducting interviews, a fact proven by the simultaneous issuance of EIOs for the same purposes in those cases.

Both Recital 25 of the law creating the European Investigation Order and a Handbook issued in 2017 by the European Commission ask Member States to use the EIO instead of the EAW. But neither has the force of law and cannot be relied upon to prevent what appears to be an ingrained practice of using the EAW to investigate.

## A mechanism designed to bring people to trial is being used simply to investigate them

Case study



**“It’s a life without him, of missing him all the time... We still haven’t been tried for... for us to pay a sentence... They’re destroying my family. And it’s just based on guesswork. He still hasn’t been tried.”** *Patricia (Pedro’s wife)*

### Pedro

#### Surrendered from Portugal to Spain

Portuguese national, Pedro was wanted for questioning in a money laundering case. He was surrendered to Spain and has so far spent a year in pre-trial detention. His wife has made weekly overnight bus trips during this period to see him. The trips and the stress of finding and paying for a good lawyer has not been easy. Patricia is on anti-depressants and she says that she is scared of what this kind of sadness does to a person.

**“The world of crime entered our lives through the hands of the courts.”**

### A different approach

In Lithuania our partners monitored a case concerning a Belarussian businessman charged with embezzlement in Lithuania. While his family lives in Lithuania, he works in Russia. An EAW was issued, and he was arrested in Estonia and extradited to Lithuania. Instead of being placed in pre-trial detention, he was allowed to stay in his daughter’s apartment under house arrest, during the pre-trial

investigation. He was subsequently granted bail to allow him to continue his work in Russia. This worked out smoothly with the accused dutifully returning to court hearings every several weeks, and the proceedings going ahead as scheduled and without additional delays. This case shows a different approach that can be taken to keep people working and keep families together. This kind of case, however, is all-too-rare. Few examples like this were seen in this project despite an extensive search.

## Used without regard to the impact on a person's family or livelihood

Our research finds that the EAW continues to be used without due regard to the impact on the person's family or livelihood. We documented several cases of people being needlessly separated from their families, with spouses, parents and children needing to travel long distances to be able to see their loved ones or, when they cannot afford the cost of the travel, spending months without seeing them. We also documented cases where the use of the EAW pushed people out of the job market or forced the closure of their businesses, because they were not able to work while being held in pre-trial detention abroad.

Analysis of whether the use of the EAW is proportionate to the circumstances should occur in the country issuing the EAW. In practice, however, we found that in many countries suspects cannot effectively challenge those decisions.

In 2018, we surveyed our Legal Experts Advisory Panel asking whether it is truly possible to challenge the issuance of the EAW in the issuing country and received responses from 12 countries: **Belgium, Croatia, Czech Republic, Denmark, Finland, France, Germany, Italy, Portugal, the Netherlands, Romania and Spain**. In only six was it possible to challenge the EAW itself – Belgium, Croatia, Czech Republic, Denmark, Portugal, and Spain. In the remaining countries it was possible only to challenge the underlying national arrest warrant. In those countries a prosecutor can issue an EAW without judicial oversight. This situation also existed in Belgium until a constitutional challenge ruled it a violation of human rights for a prosecutor to have such a power without the ability to seek review of the prosecutor's action by a court.

The mere ability to challenge the proportionality of the national arrest warrant is insufficient. Arresting or detaining someone in their place of residence is significantly less harmful than arresting a person and transferring them far away from their home, jobs and families. As the cases highlighted in our research show, an EAW may be disproportionate even when a national arrest warrant is a proportionate measure.

## Disproportionate use leads to families getting ripped apart needlessly

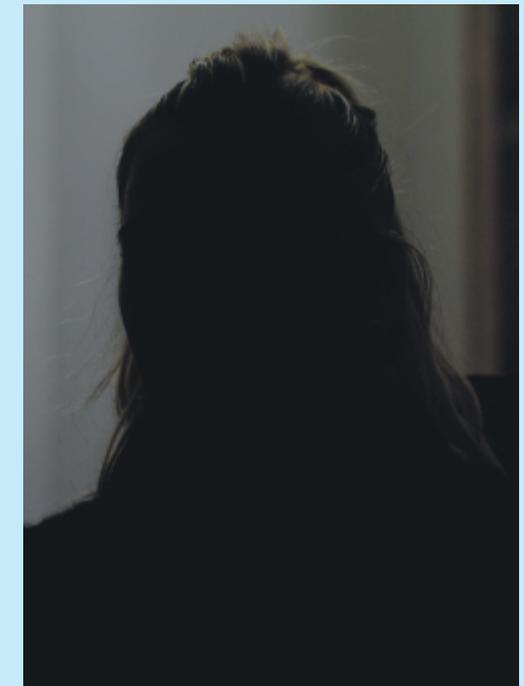
Case study

### Sara

#### Surrendered from Portugal to Spain

Sara had a four-year-old daughter and a new born baby when she was arrested in Romania under an EAW. She was extradited to Spain, and held in prison with her baby in Madrid, taking part in her trial over video-link. An agreement was reached, no evidence was examined, Sara pleaded guilty and was granted provisional release the same day.

The EAW was issued for a trial to be held. Yet the trial was held without the need for Sara to be physically present, as it was carried out via videoconference. No evidence was ever examined. This highlights that less onerous alternative measures could have been adopted that would not have affected Sara's family situation.



**“I was very worried about my daughter, who had never been separated from me (...) I did not see her while I was in prison (...) my parents came to see me once in prison, travelling from Alicante was a major issue for them.”**

## Case study

## Disproportionate use ruins people's livelihoods

### Dan

#### Surrendered from the UK to Romania

Dan lived in the UK where he owned and ran a contracting and construction business. While living in the UK he was charged with fraud in Romania related to the sale of his used car to an acquaintance in Romania. He was tried and convicted in absentia in Romania without being given notification of the trial. Romanian authorities issued an EAW for his arrest to serve his sentence.

In the UK case, the Romanian authorities claimed that he was present at the trial, although evidence that he was not was accepted by the UK court. As Dan disputed the charges, the UK court asked the Romanian authorities whether he would be granted a retrial in Romania, which they said he would. After surrender, however, he was denied the retrial that he was promised and sent to prison. He's been sharing a cell with seven other people since.

His contracting and construction business is now closed. Dan still hopes that he will one day be able to recover financially.



**“If I served my time in the UK, I could have continued my business, not close it down.”**

**“In Romania, I was sentenced by default judgment. I was never in front of the judge. The court said I was present, although I'd been in Great Britain since 2012. Until 2012, when I left for the UK, I had no legal problems, not even a traffic ticket.”**

## Key Finding 2: The EAW is used without sufficient regard to the most basic human rights

The EAW Framework Decision does not contain robust human rights safeguards. Unlike other EU criminal justice instruments, the EAW does not allow countries to refuse to execute the EAW when a person's human rights are at risk. Some countries have created such rights in their own laws to prevent these violations, but most have not.

In 2014 the European Parliament asked the European Commission to propose an amendment to the EAW to expressly provide human rights grounds for non-execution, as well as mandating proportionality checks. The Commission did not agree that this was necessary and, besides, EU Member States did not have the political will to address the problem. Rather, the Commission placed reliance on a process begun in 2009 with an EU Council Resolution establishing a *Roadmap for strengthening procedural rights of suspected or accused persons* (the “Procedural Rights Roadmap”) to serve as the primary fix for the EAW.

Our research shows that the ground-breaking laws enacted through the Procedural Rights Roadmap have improved respect for the right to a fair trial across Europe. But they have not resolved the problems with the EAW. Nor can they. The problems with the EAW have always gone far beyond the rights covered by those laws. The laws cannot resolve issues related to the disproportionate use of the EAW, and nor can they address the full extent of the human rights concerns that can arise when people are extradited, such as guarantees against ill-treatment.

Moreover, the Roadmap is incomplete. Legislation on pre-trial detention and vulnerable suspects is outstanding. And more needs to be done to ensure that the existing laws will be implemented, such as providing sufficient budgetary resources to the Commission so that it can fully perform its enforcement function, and establishing evidentiary remedies for violations of the procedural rights to better incentivize compliance.

**“The European Arrest Warrant was built without defence rights in mind.”**

*Mikołaj Pietrzak, Dean of the Warsaw Bar Association*

## Freedom from ill-treatment

People are being extradited under EAWs even where there is a risk to the most basic right to be free from torture, cruel and inhuman treatment. This right prohibits all attacks on human dignity and physical integrity, including when people are detained in cells that measure less than 3 square meters, with no privacy and with poor hygienic conditions, and is absolute, meaning that it must always be respected, without exception. This prohibits countries from sending people to other countries where they face a real risk that this right will be violated.

Systemic violations of this right are rife throughout the EU. Conditions in prisons in countries such as **Belgium, France, Hungary, Italy, Lithuania, Poland, and Romania** have been found to violate the right not to be subjected to inhuman treatment by the European Court of Human Rights and the Council of Europe's Committee for the Prevention of Torture.

Through our Legal Experts Advisory Panel, we have documented numerous instances in which surrenders were refused to countries because of concerns with prison conditions. Typically, these came from countries that have enshrined a prohibition against surrender in their national law. Yet, despite these good practices, we continue to see surrenders taking place even where there is a real risk of ill-treatment.

In April 2016, the EU Court of Justice ruled in the joint cases of *Pál Aranyosi* and *Robert Căldăraru* – cases concerning the surrender of a suspect and a convicted person to Romania and Hungary respectively – that judges must not surrender someone under an EAW until the requesting Member State has provided sufficient information to demonstrate that the requested person is not at risk of ill-treatment. If sufficient information is not forthcoming within a “reasonable period”, the judge may decide to end the surrender proceedings.

The decision stops short, however, of setting an absolute prohibition on extradition. It also leaves open the possibility that Member States provide information that is not fully accurate to one-another, resulting in an extradition despite valid concerns. As a result, the EAW Framework Decision needs to be amended to fully guarantee this right.

## What are European prisons like?

We surveyed detention conditions in the partner countries:

In **Lithuania**, the Lukiškės remand prison (Vilnius) is regularly blacklisted by the Committee for the Prevention of Torture for its poor conditions, including dilapidated conditions, lack of adequate ventilation and insufficient access to daylight. Detainees do not have any privacy while using the toilet in the cell. Similar conditions can be found in the other two remand prisons, Šiauliai and Kaunas.

In **Poland**, the overall penitentiary system has been found to be heavily overcrowded by the European Court of Human Rights. The minimum living space per detainee, at 3 square meters, is among the lowest in Europe. This results in poor hygiene (on average 2 showers per week), insufficient contact with prison tutors and cultural and educational activities.

In **Romania**, the 45 detention facilities spread across the country have been often under the spotlight of the European Court of Human Rights for their appalling conditions. In most cells, hot water for bathing is only available twice a week for an hour, which needs to be divided among the detainees sharing the same cell. Not all the rooms have showers and toilets, and hygiene materials like toilet paper are often insufficient. In many instances, the mattresses are infested with bed-bugs.

**“Conditions of detention in Europe are being worsened by the overuse of pre-trial detention.”**

*Committee for the Prevention of Torture, Annual Report 2016*

## Surrendered to Lisbon Prison in Portugal

### Case study

A Fair Trials network member in the Netherlands reported a case where the Portuguese authorities placed detainees in Lisbon prison in conditions that violate the right to be free from ill-treatment for 21 days before moving them onto better facilities, despite guaranteeing the Dutch authorities that they would not do this.

## Case study

### In the words of detainees

#### Jacek

##### Surrendered from the UK to Poland

Jacek was surrendered to Poland following an EAW to serve a sentence for a minor drink driving offence that had taken place years before. He had started a new life and settled with his family in the UK, and got a job working at an events company. An accident at work left him injured and in need of ongoing treatment to a badly damaged leg. The Polish authorities made assurances that he would receive appropriate medical treatment for his injury after his surrender.



He did not receive treatment during his stay in the Polish prison. When complaining about the injury to his leg, he was even sent to visit a dentist. When he was finally released and allowed to return to the U.K., his doctor told him that his injury was worse, and he might now need knee replacement surgery. He has not been able to work since returning.

**“Poland promised me that I would definitely have medical care. I was not cared for at all.”**

#### Adrian

##### Surrendered from the UK to Romania

Daniel Rusu was facing surrendered from the UK to Romania. The court heard evidence from 11 people who had been surrendered from the UK after guarantees were provided on their prison conditions. Each one of

**“At no point was I kept in the conditions promised in the undertaking.”**

them testified that those guarantees were not respected. One of them, Adrian Lupu, had been surrendered to Romania to serve a one-year sentence for stealing a €20 pair of trousers. The conditions were “deplorable”. Food was “inedible” and water “coloured” as if with “rust”. Beds were “one on top of each other and there was no place to move”. The “open regime” meant two hours per day outside in a “cage with concrete walls and iron bars on top”, supposed to “accommodate 200” but usually too many prisoners “to fit inside the cage”.

## The right to liberty

Our research shows that people continued to be surrendered under EAWs despite evidence that they will spend lengthy and unlawful periods in pre-trial detention, often because the EAW has been issued to investigate the person rather than bring them to trial.

The EU Council’s Procedural Rights Roadmap required a “Green Paper” on whether to enact EU legislation on pre-trial detention to address this problem. In 2011, 20 EU Member States responded to a European Commission survey. A majority (12 vs 8) favoured some form of common standards. Yet no legislation has been tabled.

In 2016, Fair Trials wrote to the European Commission emphasizing the need for legislation. This was followed by a similar letter from four leading Members of the European Parliament. The response from the Commissioner appeared to indicate that a proposal would be forthcoming. But instead, with the exception of legislation guaranteeing the right to liberty to children, pre-trial detention legislation has been quietly dropped from the Commission’s programme.

The EU does have legislation related to pre-trial detention, although it does not address the root causes of the problem. The European Supervision Order (“ESO”), which was created in 2009, operates like the EAW and requires countries to monitor people who have been released pending trial according to orders issued by courts in other countries. However, it is little used. We have repeatedly asked our network for examples of the use of the ESO and have found only two cases. A 2018 study by the DETOUR academic consortium similarly found that ESOs are “almost never used.”

This is unsurprising. The ESO can only be effective if Member States are comfortable using alternatives to keeping people in prison pending their trial. This is not the case. Pre-trial detention is the norm across Europe. EU legislation is needed to stop this practice. With 1 in 5 detainees in European prisons being held pre-trial, legislation would have the added benefit of improving prison conditions across Europe by reducing prison numbers.

## How is pre-trial detention used in Europe?

**“My priority here is to improve the procedural safeguards related to pre-trial detention. The lack of minimum procedural safeguards for pre-trial detention can hinder judicial cooperation.”**

*Vera Jourová – European Commissioner of Justice, Consumers and Gender Equality, 25 April 2016 speech on EU Criminal Law*

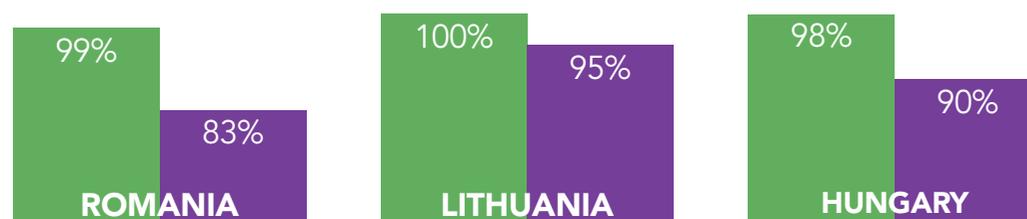
Pre-trial detention is overused throughout Europe. Between 2014 and 2016, Fair Trials studied pre-trial detention practices across the EU. We found that pre-trial detention is typically used reflexively and not as the measure of last resort as required by human rights law. More specifically, we found that the average person detained pre-trial will:

- Have little time, sometimes a few minutes, to consult with a lawyer before the pre-trial detention hearing;
- Hear the judge deciding to detain them relying mostly on the prosecution's evidence and arguments and ignoring the arguments for release, if any, by the lawyer for the defence;

- Be offered no alternative measures to detention, such as travel bans or an obligation to report regularly to the local police station, as the judge isn't even aware of or doesn't trust them;
- Hear the judge reviewing the original decision to detain them pending trial without even considering the current status of the case or personal circumstances of the defendant.

With our Legal Experts Advisory Panel we updated this research in 2018, finding that these problems persist. The 2018 DETOUR consortium's report also by-and-large confirmed these findings.

**Judicial grants of prosecutorial requests for pre-trial detention according to data gathered by researchers and according to national data**

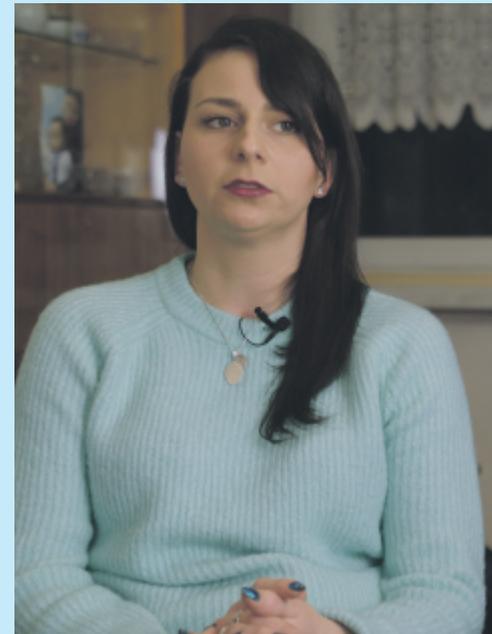


## What do people experience in pre-trial detention?

### Case study

### Paulina

#### Surrendered from the Netherlands to Poland



Paulina was extradited because of a ten-year-old arrest for carrying marijuana across EU Member State borders. In the intervening period, Paulina had made a new life, starting a family and a sushi restaurant in the Netherlands.

Years after the arrest she was arrested for a traffic violation in the Netherlands. Police discovered that she had an EAW in her name and she was surrendered to Poland in 2016 despite being heavily pregnant.

In Poland, she was held in pre-trial detention, where she gave birth to her child. She stayed in Poland until her case was ready for trial and she was tried and convicted. While in pre-trial detention her infant son became sick and received poor medical attention.

After her conviction she was permitted to return to the Netherlands to raise her infant son for a time before being requested to return to Poland to serve her sentence, which she did.

**“I knew that I had to serve that sentence, but my life in the Netherlands.... When I was deported to Poland I felt like... As if my value diminished. I felt like someone who is completely worthless.”**

**“I could stay with the baby for two hours. I could feed him, hug him. They took him away for observation. I was taken back to prison.”**

## The right to a fair trial

Respect for the right to a fair trial in Europe has improved significantly since our 2011 when we released our last report on the EAW. Thanks to the Procedural Rights Roadmap, the EU has adopted a set of binding Directives guaranteeing that all suspects will be given early access to information, interpretation, translation, a lawyer and legal aid, as well as a retrial if a trial has already been held in the suspect's absence and the rights to communicate with third persons upon arrest and be presumed innocent.

However, we continue to observe fair trials issues confronting people extradited under an EAW. The lack of standards for vulnerable suspects, particularly those with limited intellectual capacity is a significant concern. In 2018, along with our Legal Experts Advisory Panel, we issued a Communique highlighting that the Commission's Recommendation on the rights of vulnerable suspects was insufficient to provide protection to this particularly vulnerable group. While the Procedural Rights Roadmap called for legislation on vulnerable suspects, to-date legislation has only been enacted covering children.

As to the existing laws, the lack of standards governing remedies for rights violations is hindering implementation. In many EU Member States, for example, the improper denial of a lawyer will lead to no meaningful remedy, with unlawfully obtained evidence able to be used to convict the person. This limits the incentives to comply with EU law guaranteeing fair trial rights and risks wrongful convictions. In 2017, building on the work by our Legal Experts Advisory Panel, Fair Trials submitted an intervention to the European Court of Human Rights in the case of *Beuze v. Belgium* asking the court to provide certainty on this issue. If the court fails to do so, EU legislation will be required.

In addition, the EU's Justice Programme budget has not grown, and in June 2018 Commission proposals is slated for reduction in the next EU budget. A limited budget and consistent pressure to create new instruments granting prosecutors ever more powerful tools, is limiting the ability of the Commission to enforce EU law in this area.

## How fair are trials in Europe?

The EU procedural rights directives have had a significant positive impact. However, full compliance with the different aspects of the right to a fair trial is nowhere a reality. In our research for this project, we found for instance that:

In **Lithuania**, there is no official register for qualified interpreters and translators, which leaves defendants with inadequate interpretation and translation.

In **Poland**, the law doesn't guarantee that every arrested person will have full access to a lawyer before questioning. In addition, the judge is not obliged to postpone the hearing to designate a lawyer and to notify him of the date of the hearing. Even the justified absence of a defence lawyer does not stop the interrogation.

In **Romania**, several convicted persons, who were interviewed as part of the research, complained about being sentenced without being present in court. In addition, they either did not know that they had the right to a retrial or did not know how to get one.

In **Spain**, defendants don't have access to the substance of the case file in *secreto de sumario* proceedings, which are applied excessively. In addition, the notification of rights in police custody is barely understandable and arrested people often cannot keep and read the written letter of rights.

You can read more about the right to a fair trial in Europe on our website at <http://www.fairtrials.org/legal-experts-advisory-panel?leap-publications>.

### Trials in absentia and no right to re-trial

#### Case study

Surrendered from the UK to Romania, Dan was convicted in absentia for fraud. The court in Romania had claimed that he was present at trial but Dan was actually in the UK where he attended a doctor's appointment on the day of the trial. After the Romanian authorities promised a re-trial, he was extradited from the UK. A month after he returned to Romania the court changed its mind.

## Case study

## Polish judicial independence

In March 2018, in the case of the *Minister for Justice and Equality and Artur Celmer*, the Irish High Court refused to surrender a suspected drug trafficker arrested following a Polish EAW, due to concerns about the integrity of the Polish judicial system.

In the Irish High Court Judgment, Poland's judicial reforms, progressively introduced by the government since 2015 and aimed at ensuring effective control over the judiciary through its Constitutional and Supreme Courts, were described as "a shocking indictment of the status of the rule of law in a European country in the second decade of the 21st century." To explain more about the attacks on judicial independence in Poland and their impact on the right to a fair trial in the country we have created a video of the Dean of the Warsaw Bar and head of our network in Poland, Mikolaj Pietrzak, discussing these issues. This video can be accessed at <http://fairtrials.org/publication/mikolaj-pietrzak-dean-warsaw-bar-exposes-threats-fair-trial-rights-poland>.

Moreover, when the Irish Court referred the case to the EU Court of Justice for clarification, we intervened. We invited the judge to ask the EU Court to develop a new



test for national courts to apply when there are indications of a risk to the right to a fair trial, such as threats to the independence of the judiciary, in the receiving country. To date, no such standard has been developed and courts do not know, for example, whether and on what basis they should surrender people to countries where EU procedural rights law or guarantees of judicial independence are being systemically violated.

**“Even when judges are legitimately making judgments against an individual in favour of the state there will always be a question mark. This of course has led to judges throughout Europe to question whether the Polish legal system is respectful of fair trial rights.”**

*Mikolaj Pietrzak, Dean of the Warsaw Bar and Advisory Board Member of Fair Trials' LEAP network.*

## Forum-shopping hurts mutual trust

## Case study

The case of Carles Puigdemont, the former Prime Minister of Catalonia has brought the EAW under the media spotlight over the last year. The case is informative as to how countries with human rights safeguards in their national EAW laws consider EAWs and raises some crucial issues related to a potential new abusive use of the EAW.

A charge brought against Mr. Puigdemont involved the crime of rebellion, for organising a referendum on Catalan independence. A German court refused to surrender Mr. Puigdemont on this ground, as rebellion is not a crime in Germany. The German court said that it would only be possible to extradite him on other charges, thus theoretically binding the Spanish authorities if he is eventually extradited, though the decision on whether to surrender at all has yet to be made.

In addition, Mr. Puigdemont's case raises another way that Member States can misuse the EAW. Spain originally issued an EAW to arrest Mr. Puigdemont in Belgium. But, when it looked like the Belgian court would issue an unfavourable ruling, the Spanish authorities withdrew the EAW. With the EAW withdrawn, Mr. Puigdemont was to go about life in Belgium and move within Europe. Months later, while he was in Finland, the same EAW was reissued, with Spanish intelligence services seemingly



working to ensure that Mr. Puigdemont was arrested once he entered Germany from Denmark on his drive back to Belgium.

Why the authorities did not seek Mr. Puigdemont's arrest in Denmark, or indeed when he returned home to Belgium is not known. But these actions and statements made later appear to indicate that the Spanish authorities chose Germany because they thought that extradition would be more likely from there than from Denmark or Belgium.

In April 2018 we published an opinion expressing our concerns with this conduct, which is available at <https://euobserver.com/opinion/141498>. In it we highlight that the EAW was never meant to be used strategically like this and that a system based on mutual trust and respect of judicial decisions is undermined by the type of forum-shopping the Spanish authorities appear to have been engaged in.

## Key Finding 3: Insufficient information is disclosed on post-surrender treatment

In its *Aranyosi and Căldăraru* judgment the EU Court obliges the country receiving an EAW to defer extradition until the issuing state has provided sufficient information to assure it that there is no risk of ill-treatment. If sufficient information is not provided within a “reasonable period” of time, the proceedings may be closed.

The judgment does not, however, resolve the human rights problems with the operation of the EAW. The judgment is limited to the right to be free from torture and ill-treatment. It does not cover other human rights, such as the rights to a fair trial and to liberty. And the case does not resolve the problem of surrenders in the face of a risk of ill-treatment.

The judgment does not make it mandatory not to surrender a person where there is a real risk of inhuman treatment, nor does it say what information can be considered reliable, up-to-date and sufficient to be used in determining the risk.

Moreover, cases identified by Fair Trials indicate that a requirement to merely seek additional information from the issuing EU Member State will not provide sufficient safeguards against torture and ill-treatment. Too often that information is incorrect or not informed by the realities of what has happened to people who were surrendered in the past.

### Case study

#### Surrendered to pre-trial detention in Hungary

A Fair Trials network member in Hungary highlighted two cases in which suspects claimed that the Hungarian authorities breached guarantees provided to the executing state. In one case, a female suspect spent two weeks in pre-trial detention in a cell with 10-11 other detainees, each with less than the 3 sqm of space that was promised. Because of all of the beds, only one fourth of the cell was available for detainees to move around in. In another case, a male suspect was held with four people in a bug-infested cell designed for two. He was not provided with bedlinen for the first 24 days and waited 10 days to receive warm clothing for the winter.

## How judicial authorities have responded to the EU Court’s judgment

During the project we tracked and researched judicial responses to the EU Court’s judgment to determine how the requirement for information sharing between EU Member States is being treated. We have also continuously asked our Legal Experts Advisory Panel to update us with developments in national jurisprudence related to the judgment, and have launched a Case Law Database through which national court judgments related to the EAW can be accessed, which is available at <http://www.fairtrials.org/case-law>.

We have found a mixed response. The **Netherlands** appears to be leading the way. We have seen numerous instances of the Dutch judicial authorities requesting additional information and putting surrenders on hold until they are satisfied, even if it requires a series of exchanges with the issuing Member State. **Denmark, Germany, Italy** and **Ireland** also appear to be taking more robust approaches to EAW execution since the judgment.

Outside of the **Netherlands**, two cases stand out as best practices. As discussed elsewhere in this report, in 2018 the High Court in **Ireland** refused surrender to Poland based on concerns with the right to a fair trial caused by the attacks on judicial independence in the country and referred the matter to the EU Court. In late 2017, the Constitutional Court in **Germany** instructed all German courts to refer cases to the EU Court where there is any question regarding the interpretation of the right to be free of ill-treatment as it applies to prison conditions. As individuals cannot appeal directly to the EU Court, requests to the EU Court for interpretation of the interrelationship between human rights and the EAW are essential to ensure adequate protection of individual rights.

Beyond these countries, the positive impact of the judgment is less clear. Many countries appear not to have the possibility to raise ill-treatment concerns. In other countries that do have this possibility, such as in Portugal and Belgium, judicial authorities hold that that they cannot “look behind” information provided by the issuing authority. The courts in the United Kingdom are also grappling with this question.

## Why is getting accurate information so difficult?

In 2018, building on the information uncovered in this project, Fair Trials submitted an intervention to the European Court of Human Rights in the *Prisacaru v. Belgium and Romania* case, informing the Court on the impact of the EU Court's judgment and asking the Court to provide guidance on a major question arising out of the requirement to request information from the issuing state: to what extent should judicial authorities test the information provided by the issuing state?

Our research indicates a significant problem with placing too much reliance on the information provided by the issuing state. All too often information and guarantees provided by the issuing Member State are not abided by after surrender. And all too often the burden rests with the defendant – whose resources are limited compared to those at the disposal of the executing state – to uncover cases showing that the information provided by the issuing state is inaccurate or untrustworthy.

**“The best chance to identify ongoing EAW cases post-surrender is to have a vast network of cooperative contacts and a great deal of luck.”**

*Human Rights Monitoring Institute, Lithuania*

This problem is compounded by the lack of information kept or made available on post-surrender treatment as we saw through the project:

- In **Lithuania**, the Human Rights Monitoring Institute contacted the State Guaranteed Legal Aid Service, as the institution responsible for assigning legal-aid lawyers, including to persons surrendered under an EAW, but received no information.
- In **Poland**, the Helsinki Foundation for Human Rights was only able to gather relevant cases through their own legal aid programme.
- In **Spain**, despite numerous freedom of information requests, the authorities refused to supply any data on post-surrender cases due to the Spanish Personal Data Protection Act.
- In **Romania**, cases of defendants who were surrendered for investigation are not being monitored by public institutions.

## The Rusu Case: an example of the challenge of relying on information exchange between EU Member States

Case study

*Timis County Court (Romania) v. Daniel Nicolae Rusu.*

In the *Rusu* case, Daniel Rusu had been sought for extradition by Romania from the UK. Given the poor record of Romanian prison conditions, the British judge requested assurances that Daniel would not be put in a prison where human dignity is not respected. The Romanian authorities promised that this would be the case.

However, Daniel's lawyer found 11 people who were surrendered to Romania following similar promises being given to the United Kingdom Courts from Romania and submitted written evidence from them to the Court. All of them told harrowing stories of inhumane prison conditions and said that assurances made by Romania, had not been respected.

Romania, the court had ruled, could not be trusted to honour the guarantees given to the UK that prisoners extradited from the UK would not be subjected to poor prison conditions.

For a time, this case stopped surrenders to Romania. However, shortly thereafter the Romanian authorities presented information to



the UK authorities regarding a prison building and reform programme that was said to have begun resolving the problem in Romanian prisons. When that information was shown to be false, surrenders to Romania were once again halted.

Surrenders to Romania are now, once again, occurring from the UK. In one case, the UK court refused to allow written testimony from people who had been surrendered from Romania, mandating that testimony be provided in person, either in the court or via video-link. Romanian authorities denied prisoners access to video-link facilities for this purpose, and as a result testimony regarding Romanian government non-compliance with its promises has become extremely difficult to use.

## Conclusion

Over the previous pages, we have shown how the misuse of the EAW by EU Member States is leading to serious violations of human rights of EU citizens. Alongside this report, we are releasing a film in which some of the people featured in this report discuss their cases and the impact that the misuse of the EAW has had on them and their families. This film is available at: <http://fairtrials.org/publication/people-abused-european-arrest-warrant-tell-their-stories-new-fair-trials-short-film>

As these materials show, by failing to place human rights at the core of the operation of the EAW, and by treating the EAW disproportionately, as a measure of first, and not last resort, EU Member States are:

- Forcing people into lengthy pre-trial detention far away from home;
- Exposing people to the risk of inhuman and degrading treatment due to appalling prison conditions;
- Making people lose their jobs and be separated from family;
- Putting people at risk of not having a fair trial; and
- Eroding the trust they place in one-another when they cooperate across borders to fight crime.

This in turn is stopping the EAW from operating as the efficient crime fighting tool it was designed to be.

EU Member States cannot expect each other to act blindly as to human rights. A public authority exercising coercive control over an individual has a duty to ensure that its actions will not lead to a human rights violation, even if that public authority is not ultimately the one that will cause it. Yet, as currently formulated, the EAW system gives EU Member States an imperfect choice: protect human rights and risk violating the law; or follow the letter of the law and risk violating human rights.

Existing EU actions have not resolved this dilemma. Reforms are urgently needed to ensure that human rights are placed at the core of the EAW.

## Why the existing EU legislative responses to problems with the operation of the EAW are insufficient

Problem	Response	Gaps
Improper use of the EAW (for minor crimes or to investigate)	European Investigation Order facilitates cross-border interviews	<ul style="list-style-type: none"> <li>• EAW law does not allow executing countries to check proportionality</li> <li>• No explicit statement that EIO must be used first</li> <li>• Many countries do not allow direct challenges to EAW issuance</li> </ul>
Surrenders despite risk of torture and ill-treatment	None. Court of Justice has needed to intervene	<ul style="list-style-type: none"> <li>• CJEU judgement does not provide mandatory grounds for non-execution</li> <li>• Information provided by issuing country can be unreliable</li> <li>• No obligation for post-surrender monitoring or reporting</li> <li>• Overuse of pre-trial detention is causing prison overcrowding</li> </ul>
Surrenders despite risk to right to liberty	European Supervision Order	<ul style="list-style-type: none"> <li>• ESO allows recognition of detention orders only</li> <li>• No measures taken to address the underlying problem with overuse of pre-trial detention</li> </ul>
Surrenders despite risk to right to fair trial	Procedural Rights Directives	<ul style="list-style-type: none"> <li>• Roadmap not completed as related to pretrial detention and vulnerable suspects</li> <li>• Rules needed on remedies for violation of rights and when EAWs should not be executed</li> </ul>

## What we are asking for

The next year presents a golden opportunity to resolve the problems identified in this report and to ensure that the EU is able to guarantee freedom, security and justice within its borders.

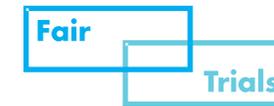
Over the next year there will be elections for the European Parliament, selection of the Commissioners who will take the EU through to the end of the 2014-2020 programme, and negotiations over the 2021-2027 budget and programme. The future of the EU, its direction and purpose, will soon be decided. The opportunity that this provides should not be missed.

By putting human rights at the core of the EAW, the EAW can be made the efficient and effective tool for combatting serious cross-border crime that it was designed to be.

We urge the EU, its institutions and Member States, to ensure that the following three steps are taken:

- 1 Amend the EAW law** guaranteeing human rights refusal grounds and proportionality checks in the executing country, requiring post-surrender monitoring and reporting and establishing that the EAW should only be used if all other alternatives have been exhausted.
- 2 Complete the Procedural Rights Roadmap** with legislation on pre-trial detention and vulnerable suspects, particularly those with physical and intellectual disabilities.
- 3 Strengthen the implementation of EU criminal law** with legislation guaranteeing meaningful remedies for procedural rights violations and adequate budgetary support for the Directorate General for Justice and Consumers and the Justice Programme.

## Who we are



**Fair Trials:** Fair Trials is the global criminal justice watchdog. Our vision is a world where every person's right to a fair trial is respected.

Fair Trials helps people to understand and exercise their fair trial rights; addresses the root causes of injustice through its legal and policy work; and undertakes targeted training and networking activities to support lawyers and other human rights defenders in their work to protect fair trial rights.

In Europe we coordinate the **Legal Experts Advisory Panel**, the leading criminal justice network in Europe consisting of over 180 criminal defence law firms, academic institutions and civil society organizations. More information about this network and its work on the right to a fair trial in Europe can be found on our website at <https://www.fairtrials.org/legal-experts-advisory-panel>



**APADOR-CH:** The Association for the Defence of Human Rights in Romania – the Helsinki Committee (APADOR-CH) is a non-governmental, not-for profit organisation established in 1990. APADOR-CH works

for the protection of human rights through the development of efficient legal and institutional mechanisms to monitor human rights compliance of public authorities; the improvement of legislation and practices; and strategic litigation.



**Helsinki Foundation for Human Rights [HFHR]:**

HFHR is a non-governmental organisation established in 1989 in order to promote human rights and the rule of law, and to contribute to the development of an open society. The main areas of its activity include: domestic education in the field of human rights; domestic and international advocacy on democracy, constitutionalism and human rights; monitoring and strategic litigation. Moreover, the foundation's experts formulate

analyses, opinion statements and recommendations on draft bills related to the right to a fair trial.



**Human Rights Monitoring Institute [HRMI]:** HRMI is a non-governmental, not-for-profit public advocacy organisation. Since its establishment in 2003, HRMI has been advocating for full compliance of national laws and policies with international human rights obligations and working to ensure that rights are real and effective in practice. HRMI's activities include research, drafting briefings and reports to international human rights bodies, strategic litigation, expert consultations and legal services, and delivering trainings to law enforcement officers.



**Rights International Spain [RIS]:** RIS is a non-governmental and independent organisation composed of lawyers specialised in international law. The organisation's mission is the promotion and defence of human rights and civil liberties. RIS also works towards a better understanding and application of international human rights law.

### To learn more

The Comparative Report in Beyond Surrender Project is available at <https://www.fairtrials.org/>

The Lithuanian Country Report in Beyond Surrender Project is available at <http://hrmi.lt/en/>

The Poland Country Report in Beyond Surrender Project is available at <http://www.hfhr.pl/en/>

The Romanian Country Report in Beyond Surrender Project is available at <http://www.apador.org/en/>

The Spanish Country Report in Beyond Surrender Project is available at <http://www.rightsinternationalspain.org/>

## Further Reading

### Fair Trials/LEAP publications relevant to this report

2011 report on the European Arrest Warrant available at [https://www.fairtrials.org/documents/FTI\\_Report\\_EAW\\_May\\_2011.pdf](https://www.fairtrials.org/documents/FTI_Report_EAW_May_2011.pdf)

2016 report on the overuse of pre-trial detention in Europe available at <http://www.fairtrials.org/publication/measure-last-resort>

2018 update report on the overuse of pre-trial detention in Europe, available at <https://www.fairtrials.org/publication/update-report-pre-trial-detention>

2018 communique on lack of protections for vulnerable suspects, available at <https://www.fairtrials.org/publication/communique-vulnerable-suspects-0>

Annual Reports & Quarterly Bulletins of the LEAP network during the Beyond Surrender project (2016-2018) available at <https://www.fairtrials.org/legal-experts-advisory-panel?leap-publications>

### Friend of the Court submissions by Fair Trials relevant to this report

2017 intervention before the European Court of Human Rights in *Beuze v Belgium* on remedies in the EU for fair trials violations available at <https://www.fairtrials.org/node/966>

2018 intervention before the European Court of Human Rights in *Prisicaru vs Belgium and Romania* on torture and ill-treatment in EAW cases available at <https://www.fairtrials.org/node/1373>

2018 intervention before the Irish High Court in the EAW case *Minister for Justice and Equality and Artur Celmer* on the right to a fair trial and judicial independence available at <https://www.fairtrials.org/node/989>

### Recent publications from other sources relevant to this report

2016 Council of European Bars and Law Societies report on the EAW from a legal practitioner's perspective, available at [http://www.ccbe.eu/fileadmin/speciality\\_distribution/public/documents/CRIMINAL\\_LAW/CRM\\_projects/EN\\_CRM\\_20161117\\_Study-on-the-European-Arrest-Warrant.pdf](http://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/CRIMINAL_LAW/CRM_projects/EN_CRM_20161117_Study-on-the-European-Arrest-Warrant.pdf)

2017 European Parliament Research Service report on the Cost of Non-Europe: procedural rights and detention conditions available at [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/611008/EPRS\\_STU\(2017\)611008\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/611008/EPRS_STU(2017)611008_EN.pdf)

2018 report of the DETOUR academic consortium on pre-trial detention in the EU available at <http://www.irks.at/detour/publications.html>

2018 report of the European Criminal Bar Association, "Agenda 2020: A new Roadmap on minimum standards of certain procedural safeguards" available at [http://www.ecba.org/extdocserv/20180424\\_ECBA\\_Agenda2020\\_NewRoadMap.pdf](http://www.ecba.org/extdocserv/20180424_ECBA_Agenda2020_NewRoadMap.pdf)

**“The Framework Decision[] on the European Arrest Warrant ... should be amended to include a proportionality check, inter alia ensuring that an EAW is only issued as a last resort in view of less intrusive alternatives, and fundamental rights exceptions. This would decrease the current efficiency and fundamental rights gaps, as well as time spent by suspects in surrender and subsequently pre-trial detention.”**

*European Parliament Research Service 2017 report on Cost of Non-Europe: procedural rights and detention conditions*

**“The right to a fair trial is one of the cornerstones of a just society. Without fair trials, innocent people are convicted and the rule of law and public faith in the justice system collapse. Fair Trials is a unique human rights charity that helps people facing criminal charges all over the world to protect this basic right and campaigns for fairer criminal justice systems.”**

*Fair Trials*



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