

Social Fieldwork Research (FRANET)

European Arrest Warrant proceedings –
safeguards for requested persons
Perspective of requested persons

Cyprus 2023

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EXECUTIVE SUMMARY

Right to information

The practice which emerged from all interviews is that requested persons are handed a document of rights by the police in any language of their choice, without any explanation or clarification; the provision of this document was the only communication of rights they received outside the courtroom. This is a lengthy document in a legal language that is not readily understood by persons without legal training and in the particular mind-frame when placed under arrest. The document of rights reportedly relies on the national legal framework on the rights of arrested persons and does not include rights which are specific to the EAW, such as the specialty rule and the right to dual representation. It emerged from the narratives of persons arrested whilst already serving prison sentences that this document was not handed to them upon arrest in the prison but only upon being presented to court for the execution of the arrest warrant. Other narratives highlighted a police practice of delaying the execution of EAWs for years when other charges were pending against the same defendants.

Information about the charges is provided by the judge inside the courtroom and a copy of the EAW itself is handed to the lawyers of requested persons. At times the police informs briefly the requested persons of the charges against them although this does not appear to be practiced uniformly or consistently. A police practice of arresting people on national arrest warrants until the Greek translation of the EAW was reported, which may explain why the police often does not provide requested persons with information on the charges against them upon arrest.

No case was located where the authorities informed requested persons of their right to appoint a lawyer in the issuing member state or about the specialty rule.

The degree of understanding the information provided was low; only one requested person reported a good level of understanding, however he was also a lawyer himself.

Right to interpretation and translation

Interpretation is available only inside the courtroom. For some languages the quality of interpretation was adequate, for other languages it was assessed by defendants as less adequate. In some instances, the court could not provide interpretation for the chosen language of an ethnic community and provided interpretation only for the language of the country where the defendant came from. None of the interviewees was provided with state paid interpretation at the police station or for communications between lawyer-client and none appeared to be aware of this right. This was not identified as a problem because no questioning took place inside the police stations; one interviewee reported that the state-paid interpreter appeared to be collaborating with the police and was therefore unwilling to accept his assistance in communicating with his lawyer.

Interviewees reported that the authorities did not inform them of their right to access their file and have the documents translated to them. The courts were reported to be reluctant to share the contents of files and to have them translated, invoking the strict timelines foreseen in the regulations for completing the procedure. A sample of the contents of the file is handed by the courts only after persistent efforts from the lawyers and the translation provided is only in the language(s) spoken by the lawyer rather than the defendant.

Right to access to a lawyer

Requested persons were not orally informed of their right to appoint a lawyer in Cyprus although all interviewees were aware of this right from past experiences. The right to a lawyer is included in the document of rights handed to them at some stage of the procedure but this document was not the source of information for this right. The police is reported as readily contacting specific lawyers on behalf of detained persons although they do not provide a list of legal aid lawyers nor do they give internet access to detained persons in order to identify lawyers to represent them. Persons requested with a EAW who are already serving a prison sentence for another offence faced more difficulties in consulting their lawyers before being presented to court for the execution of the EAW.

No person interviewed had received any information from the authorities about their right to appoint a lawyer in the issuing state; this right is reportedly not included in the document of rights handed to them either. Lower courts are reported to sometimes pay little attention to the right to consult a lawyer in the interests of meeting the tight deadlines set in the regulations.

Execution of the EAW – factors considered

Interviewees reported that requested persons who were facing other charges unrelated to the EAW experienced significant delays in the execution of the EAW, which generated insecurities and frustration. Delays and bureaucracy in the transmission of information between issuing and requested member states leads to situations where requested persons do not know if they ought to consent to be surrendered or not. A person caught in between the pre- and post-Brexit EAW issued in England reported ignorance by the authorities in the procedures to be followed for the execution of the EAW. Interviewees further reported lack of training of judges, prosecutors and police officers in EAW and a mentality of presuming all requested persons as guilty, especially if they are already serving another sentence and/or the EAW relates to a sentence imposed in another member state.

INTRODUCTION

In total, five **eligible interviews** were carried out in the timeframe of March to April 2023. Three with requested persons and two with lawyers with experience in EAWs who had represented requested persons in Cypriot courts within the time frame of this project.

The three interviews with requested persons were conducted face to face in different locations: at the office of the requested person's lawyer, at the requested person's office who was serving a sentence wearing an ankle band, in the holding cell located inside court room. In one case, an interpreter was used, as the requested person did not speak Greek or English.

The interviews with the lawyers were conducted by telephone; one of them was abroad and the other was in another city.

PREPARATION OF FIELDWORK, IDENTIFICATION AND RECRUITMENT OF PARTICIPANTS

The interviewer had more than 25 years of fieldwork experience and no training was carried out.

Locating interviewees was particularly challenging. The Ministry of Justice and individual prosecutors from the Attorney General's office were contacted but could not provide assistance in locating persons who had experience EAW proceedings in Cyprus. Contacts with lawyers who have represented

requested persons in EAW proceedings was the method which proved successful, through whom we interviewed three persons who had been subject to EAWs in Cyprus: a person of Kurdish origin who had been requested by Germany; a lawyer who had himself been requested for extradition to England under a EAW issued before Brexit and executed in 2022; and a Polish national who was serving a prison sentence in Cyprus.

The last two interviews were conducted with lawyers who specialise on EAWs and who had recently dealt with EAW cases. This enabled us to obtain information over a large spectrum of practices involving several cases and in most findings the information provided by the requested persons and by the lawyers concurred.

The interviews lasted between 30 and 40 minutes. Not all questions applied to all interviewees: for instance, some interviewees had no issues as regards translation or interpretation because they were fluent in Greek or English; others were already serving a sentence in Cyprus and were requested by another member state in order to serve a sentence imposed there, therefore questions regarding surrendering in the issuing state and the specialty rule were not applicable to them. The atmosphere during the interviews was good. The presence of the lawyers whilst interviewing requested persons proved helpful, as it generated a climate of trust and provided reassurance to the requested persons.

DATA ANALYSIS

The interviews were transcribed, where necessary translated, and summarised. Extracts from each interview were inserted under relevant questions; the answers were compared and analysed per thematic area and findings were extracted.

BRIEF OVERVIEW OF THE REPORT'S CONTENTS

This report records and analyses the experiences of persons who had experienced proceedings for the execution of EAW in Cyprus as regards the implementation of their procedural rights, namely the rights to provision of information, to interpretation and translation, to a lawyer in both the executing and the issuing state and the issues they raised as regards the execution process. The report relies on the narratives of three requested persons, two of whom were serving sentences in Cyprus and a third was awaiting trial of his appeal; and two lawyers who had represented requested persons in the context of execution procedures. The practices which emerged from the narratives were linked with the relevant provisions of the EAW law in order to identify potential breaches, gaps and areas of concern.

RESEARCH FINDINGS

1. Right to information

a. Provision of information

All interviewees reported that the police handed them a document of rights in their mother tongue or in a language they understood. However, there were no oral explanation by interpreters at the time the police handed the document to the requested persons. All interviewees reported that no interpreter is available at the time of handing out the document of rights, in order to explain its contents, unless the document is handed to them for the first time in the courtroom. It emerged that the police do not provide any explanation even where there is no language barrier.

Requested persons are asked to sign a document as evidence of receipt. The document containing the rights of requested persons is a rather lengthy, around eight to ten pages and in a complex legal language that is not readily understood by requested persons and especially in that situation. In the case of requested persons already serving a prison sentence, the document of rights was not handed to them in prison; instead, it is given to them when they were inside the detention cell of the courts building, just before they were about to be presented in Court. One requested person said:

When I was presented in court, the police gave me a document of rights in Polish which they asked me to sign. There was an interpreter present in the court who merely read out the document to me and told me there is an EAW issued against me relating to a conviction for theft in 2005. No-one explained anything else to me.

One of the lawyers stated:

Inside the holding cell of the court building, the police handed [my client] for the first time the document of rights in Greek and in Slovak. It was a lengthy document of about 10 pages in legal language which is impossible for a non-lawyer on to understand, especially for a person who was taken to court without explanation

One of the requested persons interviewed described how he was requested with a EAW in 2008, won the case and was then re-requested in 2016 with a fresh EAW which however was identical to the previous one, only the sentence and the date differed. The police decided to execute the 2016 EAW in 2022 and asked him to meet them in court; at this time, they did not provide a document of rights nor did they explain the charges against him.

b. Information about rights

Table 6: Were the requested persons informed about their procedural rights?

CYPRUS	Requested person 1	Requested person 2	Requested person 3	Requested person 4	Requested person 5	Total
YES	√	√	√	√	√	5
In writing (letter of rights)	√	√	√	√	√	5
Orally						
In writing (letter of rights) and orally						

NO						
Don't know/remember						
Did not answer						

c. Information about the EAW – content and procedure

The law purporting to transpose the EAW law requires that information pertaining to the content and procedure of the EAW be provided to requested persons. Requested persons must be presented before the district judge within 24 hours of their arrest. Once the judge is satisfied as to their identity, the judge will inform them of the content of the EAW, their rights to a lawyer and to an interpreter and their possibility to consent to their surrender to the issuing state.¹ The judge must also inform requested persons without unjustified delay after deprivation of their liberty about their right to appoint a lawyer in the issuing state.² The EAW law states that the requested persons ‘must be provided’ with a document of rights in a language that is simple and accessible to them.³ The letter of rights must provide the following information about the requested person’s rights:

- The maximum period that requested persons can be detained before being brought before a judge is 24 hours from arrest;
- The right to be informed of the contents of the EAW on the basis of which they were arrested, in a language they understand, although sometimes this information will be provided only in summary form and/or orally;
- The right to speak confidentially to a lawyer;
- The right to assistance from the police to contact a lawyer;
- The right to free interpretation for communicating with their lawyers;
- The right to confidentiality in all communications with their lawyers;
- The right to consent or not consent to be surrendered to the issuing member state, pointing out that such consent will accelerate the procedure and that it is irrevocable.
- Persons who do not consent to their surrender have the right to a hearing before the Court.

The interviews conducted with requested persons demonstrate that the legal requirements for the provision of information on the content and procedure of the EAW is not adequately adhered to. In most cases, requested persons hear about the charges from the judge once they were presented in

¹ Cyprus, Law on the European Arrest Warrant and the procedures for surrender of wanted persons between member states of the European Union of 2004 ([Ο περί Ευρωπαϊκού Εντάλματος Σύλληψης και των Διαδικασιών Παράδοσης Εκζητουμένων Μεταξύ των Κρατών Μελών της Ευρωπαϊκής Ένωσης Νόμος του 2004](#)), N.133(I)/2004, article 17(a).

² Cyprus, Law on the European Arrest Warrant and the procedures for surrender of wanted persons between member states of the European Union of 2004 ([Ο περί Ευρωπαϊκού Εντάλματος Σύλληψης και των Διαδικασιών Παράδοσης Εκζητουμένων Μεταξύ των Κρατών Μελών της Ευρωπαϊκής Ένωσης Νόμος του 2004](#)), N.133(I)/2004, article 17(5).

³ Cyprus, Law on the European Arrest Warrant and the procedures for surrender of wanted persons between member states of the European Union of 2004 ([Ο περί Ευρωπαϊκού Εντάλματος Σύλληψης και των Διαδικασιών Παράδοσης Εκζητουμένων Μεταξύ των Κρατών Μελών της Ευρωπαϊκής Ένωσης Νόμος του 2004](#)), N.133(I)/2004, article 17(1A).

court. In some cases, the police would give a brief description of the charges. One of the requested persons stated:

The police said the reason for my arrest is because Germany said I was a member of the PKK and this is the reason they are searching for me and that they arrested me in order to extradite me to Germany. That is all ...I was visiting the airport desk in order to have my documents stamped; this the procedure I had to follow every three months. When I went to the desk to have my documents stamped, the police told me there was a warrant for my arrest. They treated me with respect, but they said I must go to Germany to be tried. At the airport desk, another police officer came, and he handed me the phone to speak to someone who spoke Turkish. The Turkish speaking person explained clearly that the reason they arrested me was because a German court issued an arrest warrant against me, and the Cypriot police had to take me to court in order for the court to decide if I will be sent to Germany to be tried.

The practice of the police informing requested persons of the charges against them was not applied uniformly; in all other cases, the requested persons heard the charges for the first time inside the courtroom by the judge. Two other requested persons stated:

Later my lawyer and I were given the arrest warrant. I was not given the arrest warrant at the time of my arrest or when I was first presented at court.

When I was presented in court, the court's interpreter told me that the EAW concerned a car theft for which I was convicted in Poland in 2005 but no further details. That was the only explanation I had. I did not see the arrest warrant and I assumed it is the same with which I was arrested and released in 2017 and 2020, but I am not sure.

One of the lawyers stated:

When my client was taken inside the courtroom, the reasons for his presence in court were explained to him orally in the presence of a court interpreter.

The information about the charges facing a requested person is typically contained in the EAW itself. If the police proceeds with the arrest of a requested person before EAW reaches them translated into Greek, which is often the case, the practice is for a temporary arrest warrant to be issued under the national law. The national arrest warrant permits detention for up to eight days; during this eight-day period, the police is not under any duty to provide the requested person with details of the EAW. The details must be supplied only after the police is handed with the Greek copy of the EAW. As reported by one lawyer:

If the EAW is already translated, then the police is under a duty to give the requested person a copy. In our case the police never gave my client a copy of the EAW; they gave to us as his lawyers the national arrest warrant with the red notice from Interpol attached, which provides in very general terms the reasons for his arrest. After that, the EAW in both Greek and English was received, and we supplied the English copy to our client.

According to the same lawyer, the police hardly ever provide the EAW into languages other than Greek and English, as there is no time to find a translator within the tight deadlines foreseen in the rules:

In Cyprus we have determined both English and Greek as national languages so that issuing states are required to send the EAW in both languages and then the police can give the English EAW to the requested person. If the police were to translate the EAW in any other language, this would take at least a month.

Table 7: Were the requested persons informed of the contents of the EAW against them?

CYPRUS	Requested person 1	Requested person 2	Requested person 3	Requested person 4	Requested person 5	Total
YES	√	√	√	√	√	5
In writing				√	√	
Orally	√	√	√			3
In writing and orally				√	√	2
NO						
Don't know/remember						
Did not answer						

d. Information on consenting to surrender

Information on the consequences of surrendering was provided only by the requested persons' lawyers. One requested person stated:

Nothing was explained to me either at the point of my arrest or at any other point. No-one informed me about my right to be tried only for the right mentioned in the arrest warrant, except for my lawyer.

In the case where the requested person was serving a sentence in Cyprus and the EAW was related to another sentence imposed on him elsewhere, surrender was not an option and no explanation were given. The requested person said:

Nobody asked me if I consented to be extradited to Poland. On both the previous instances where I was arrested, the procedures were dropped before I was asked if I consented to my surrender. Nothing was explained to me about the possibility to surrender. My lawyer in Cyprus wrote to the Ministry of Justice in Cyprus enquiring whether there was a EAW against me and the Justice Ministry confirmed there was one EAW but did not provide details. I do not understand the procedure.

In another case the requested person expressed the view that his prosecution was politically motivated and did not have faith that the specialty rule would be applied:

I did not consent to be surrendered to Germany. We Kurdish people know that the arrest warrant issued in Germany is politically motivated. When Turkey asks Germany to surrender people, it usually argues terrorist charges and the detention conditions are very harsh, they tie our feet with chains. The reason I did not want to go to Germany is because I am a political person. In Germany my work was humanitarian and peaceful, but if you defend the Kurdish cause you are regarded

as a terrorist. Germany wants to have good relations with Turkey. From 1984 onwards, for 40 years of Kurdish presence in Germany there was no single incident of Kurds being involved in crime. I devoted my life to humanitarian cause, why should I go to Germany to be tried on terrorist charges?

A requested person stated that his lawyer advised him not to consent to a surrender so as to earn time to negotiate. The uncertainty created by Brexit left its marks on the EAW process as no-one was sure if the specialty rule applied. This in turn apparently prompted the Cypriot police and the Cypriot courts to refrain from providing information on rights, as some of these rights may not be provided in post-Brexit England:

In 2022 no one read me my rights. The judge could not guarantee that, in the event of my surrender to England I would only be tried for the offence mentioned in the warrant, because she was not certain about the applicable legal framework in post-Brexit England and whether the specialty rule was still applicable... The police were confused about the applicable rules too.

Both lawyers stated that the Court told their client that they could consent or deny to be surrendered without explaining the consequences of consenting:

- *From my experience, none of the requested persons are given information about the specialty rule. Many requested persons are concerned that if they are surrendered, they may be tried for reasons other than those mentioned in the EAW and no-one is given the necessary information to put their mind at rest. Also, no-one explained to my client that he can serve in Cyprus the sentence imposed on him in Slovakia.*
- *Yes, they did explain to him that he could consent or object to his surrender. We have to appear before two courts: the court which hears the application for the temporary arrest warrant issued under the national law and then, after the EAW arrives in Cyprus in Greek, the court which hears the application under the EAW. In the second court, the judge will provide requested persons with detailed information about the charges against them and their rights. However, neither court explained the specialty rule to my client. I have never come across a case where the specialty rule was explained to requested persons by the police or by the courts.*

Table 8: Were the requested persons informed about what consenting to their surrender entailed?

	Requested person 1	Requested person 2	Requested person 3	Requested person 4	Requested person 5	Total
YES						
NO	√	√	√	√	√	5
Don't know/remember						
Did not answer						

e. Understanding of information

Only one of the requested persons interviewed understood the information provided, as he himself was also a lawyer. All other requested persons relied on their lawyers to explain the information to them. In one instance, the lawyer was also not in possession of the necessary information:

In 2019 I became aware that there is a EAW against me which I have never seen and was never produced to me or to my lawyer. My lawyer has secured the reference number of the EAW from the police but he has not seen the warrant itself either. We are aware that the EAW relates to an offence in respect of which I was convicted in Poland in 2005.

In another case, even the lawyer faced difficulties explaining to his client the procedure due to its complexity, the requested person's state of mind at that moment and the absence of adequate interpretation:

It was also hard for me to explain to him in a manner that he could understand because of the complexity of the procedure and the circumstances under which he found himself in court. I was present when he repeatedly asked the court what the reason for his arrest was and what is going to happen to him, but no-one would reply to him. The prosecution authorities and the police treated him as guilty and did not respect his right to be presumed innocent; they acted all along like they were going to extradite to Slovakia a guilty person.

Concerns were also expressed by the lawyers for those requested persons appearing without legal representation; for those the explanation provided by the court is inadequate and the police merely hands to them the document of rights without any explanation.

f. Challenges

Interviewees reported long delays and bureaucratic practices, which caused them anxiety and suspicion towards the authorities. The delays in cross-border transmission of documents and information impacted negatively on requested persons' rights. One of the requested persons said:

We were asking for the Court decision issued against me in 2005, which was never given to us. I had access to it, but the judge in Cyprus did not receive it through the official channel and she said she could not accept it from me, she needed to receive it officially from the issuing state. Despite the fact that I am now serving my sentence in Cyprus, the arrest warrant issued against me by the British authorities has not been cancelled, as the British authorities claim they have no update about the court decision in Cyprus that I am to serve my sentence in Cyprus and are therefore still keeping the arrest warrant in force...The handling of my case was so prolonged and so bad that in the end I was begging for them to take me to jail as I could no longer bear having an EAW hanging over me.

Another requested person reported a similar experience:

The Polish authorities informed my lawyer in Poland that they agreed for me to serve my sentence in Cyprus. However, there are no documents in Cyprus documenting the Polish authorities' approval for me to serve my sentence here. I now have to attend a court hearing about a EAW, but I still do not know if this case relates to the same EAW or to another one. My lawyer in Cyprus does not have any information either.

Requested persons who were detained in police holding cells reported inadequate detention conditions that led to feelings of anxiety and depression. The police holding cells are of inadequate standard and do not meet the EHCR specifications. For this reason, requested persons who are

arrested and are awaiting trial are often detained in the central prison alongside convicted prisoners which their lawyers reported as unacceptable.

g. Discussion of findings

- All interviewees reported that the police handed them a document of rights in their mother tongue or in a language they understood. However, **there is no oral explanation by the police or by interpreters at the time the police handed the document** to the requested persons.
- No interpreter is available at the time of handing out the document of rights, in order to explain its contents, **unless the document is handed to them for the first time in the courtroom**. It emerged that **the police do not provide any explanation** even where there is no language barrier.
- Requested persons are asked to sign a document as evidence of receipt. **The document containing the rights of requested persons is rather lengthy**, around eight to ten pages and in a complex legal language that is not readily understood by requested persons and especially in that situation. In the case of requested persons **already serving a prison sentence**, the document of rights was not handed to them in prison; instead, it is given to them when they were inside the detention cell of the courts building, just before they were about to be presented in Court.
- In the case of the requested person who was caught in between the change of the system during **Brexit**, it emerged that, whilst all formalities were complied with in 2008, in 2022 there were no procedural safeguards in place and no-one including the judge were sure what the applicable legal framework was. This was particularly striking in the case of the specialty rule, where the British authorities were not answering whether they would apply it which in turn prompted the Cypriot authorities to refrain from giving the confirmation that he would not be tried for any other offence in case he consented to be surrendered.
- **For those requested persons already serving a prison sentence** for a different offence, **the police practice** appeared to be the **handing of the document of rights as a mere formality** just before entering the courtroom and no other information, suggesting that the police had already presumed the requested persons guilty of the offence in the EAW too, presumably warranting lesser observation of their procedural rights.

2. Right to interpretation and translation

a. Provision of interpretation (decision and means)

In all cases, interpretation is provided only inside the court room. The quality of the interpretation varied and one case no interpretation is given in the language requested by the requested person:

- *In the court I said I wanted to speak in Kurdish, but they said only Turkish interpretation was available*
- *Yes, I did need interpretation but this was only provided inside the courtroom. Nothing was interpreted for me whilst I was in prison, at the time when I was told that I had to appear before the court. In the court there was a Cypriot interpreter for Polish, however he did not speak Polish well and I did not understand much of what he was saying... I told the judge I did not understand everything from the interpretation and the judge adjourned the proceedings for another date, in order*

for me to appear in court with my lawyer. I am not aware whether there will be another Polish interpreter in Court on that date or whether I will rely on my lawyer to explain to me.

One of the lawyers said:

Yes, my client did need interpretation, he asked for it and interpreters in Hebrew and in English attended the court hearing. There was a delay in finding interpreters in Hebrew but by the time we attended the court the Hebrew interpreter was present and it was of adequate standard.

Where interpretation is needed, this is not provided except for during the court proceedings. Requested persons complain that the quality of the interpretation is not of adequate for them to fully understand their right and follow proceedings.

b. Translation of documents

All interviewees responded that they are not informed of their right to access their file and for the documents to be translated to them. Access to the file and translation of its contents is possible only if the requested persons' lawyers demanded this in court:

- *I did not see the file, this was handled by my lawyer. At first, the police did not hand any documents to me or to my lawyer. During the first court appearance, my lawyer asked for the documents on the file to be translated but this did not happen. At the second court hearing and after my lawyer insisted, the contents of the file were translated and handed to us. The court ruled that the documents had to be translated from German. Initially they were translated into Greek and then my lawyer asked for them to be translated in my language.*
- *I did not see any of the documents in my case-file. I did not ask for these documents as I didn't know I had this right. My lawyer was also not provided with any documents of my file either.*

Even where lawyers ask for the contents of the file, the court does not release the entire file but only a sample of what they consider necessary as regards the procedure in Cyprus. The tight deadlines foreseen in the regulations are also invoked by the court the reason for not translating the entire file. As reported by a lawyer:

[W]e were aware that the complainant had withdrawn his complaint against my client and declared that he had been compensated, yet the authorities did not provide the documentation to help us establish this. The court insisted that the documents are irrelevant because the Cypriot courts were not going to try the substance of the case. They supplied us only with the EAW with its attachments and one paragraph explaining the facts of the case. The EAW was given to us in Slovak and I asked for an English translation which was supplied to me. The file was not translated in its entirety. We asked for a translation but the court replied that there are strict deadlines for execution foreseen under the law and there was no time for a translation, they only explained the content to him orally in court. The requested person's rights were sacrificed for the sake of keeping the deadlines.

Another lawyer of a requested person mentioned that his client was handed the contents of the case file in English, which was satisfactory to him, but had he asked for translation in any other language it is unlikely that he would have got it.

c. Interpretation of consultations with lawyers

All interviewees reported that no state-paid interpretation is provided for them for consultations between requested persons and lawyers. In some cases, they were unaware of their right to free interpretation, despite having a lawyer:

Yes, I needed interpretation, but this was only provided for me in Court. At the police station, my lawyer came together with an interpreter, the police did not bring an interpreter for me. No reason was supplied to me for not providing interpretation. I did not ask for an interpreter because I did not have to say anything until my lawyer arrived. I didn't know I had the right to an interpreter at the police station, I thought I only had this right at court.

In another case, the requested person chose not to use the interpreter used by the court for communicating with his lawyer outside the Courtroom and resorted to using English instead, because it appeared to him that the state-paid interpreter was collaborating with the police:

I communicated with my lawyer in English. I would have preferred to have a Polish interpreter to assist me with my communications with my lawyer. However, the only interpreter available was a Cypriot who seemed to be working for the police and did not speak Polish very well. My lawyer advised me that, in the interests of confidentiality, it was better not to use the services of the particular interpreter and I therefore decided to use English to communicate with my lawyer.

The national law transposing Directive 2010/64/EU covers the criminal procedure from the point where persons are notified that they are suspected of or charged with an offence until final determination.⁴ The competent authority is under a duty to provide without delay interpretation to a requested person during all stages of the criminal procedure, including police interrogation and the court procedure.⁵ The law provides that the information must be provided in a language understood by the requested person, in simple and accessible form, taking into account the special needs of persons deemed to be vulnerable.⁶ Where the persons arrested are manifestly unable, owing to any mental or physical disability, to exercise the right of communication with a lawyer without assistance, an officer of the medical and/or social services of the state will be made available to them immediately after their arrest or as soon as practicable, in order to provide assistance to the arrested persons to

⁴ Cyprus, Law on the right to interpretation and translation during the criminal procedure of 2014 ([Ο περί του Δικαιώματος σε Διερμηνεία και Μετάφραση κατά την Ποινική Διαδικασία Νόμος του 2014](#)).

⁵ Cyprus, Law on the right to interpretation and translation during the criminal procedure of 2014 ([Ο περί του Δικαιώματος σε Διερμηνεία και Μετάφραση κατά την Ποινική Διαδικασία Νόμος του 2014](#)), article 4(1).

⁶ Cyprus, Law on the rights of suspects, persons arrested and persons remanded in custody of 2005 ([Ο περί των Δικαιωμάτων Υπόπτων Προσώπων, Προσώπων που Συλλαμβάνονται και Προσώπων που Τελούν υπό Κράτηση Νόμος του 2005](#)) N. 163(1)/2005, article 3(1); Cyprus, Law on the European Arrest Warrant and the procedures for surrender of wanted persons between member states of the European Union of 2004 ([Ο περί Ευρωπαϊκού Εντάλματος Σύλληψης και των Διαδικασιών Παράδοσης Εκζητουμένων Μεταξύ των Κρατών Μελών της Ευρωπαϊκής Ένωσης Νόμος του 2004](#)), N.133(I)/2004, article 1A.

exercise their right to communicate with their lawyer.⁷ However, requested persons and lawyers interviewed report that the right to interpretation and translation is not fully adhered to. In practice, the translation and interpretation of the content of the rights of requested persons, the charges and substantive elements contained in the EAW and the procedure is not as a substantive part of the process, but as a formality in a fast process.

d. Challenges

Requested persons who have lawyers tend to rely on them to provide interpretation and translation, partly because the interpretation provided by the authorities is inadequate and partly because they have no faith in the authorities. The problem is reportedly more acute in the case of requested persons who do not have legal representation or legal training.

e. Discussion of findings

- In all cases, interpretation is provided **only** inside the court room. The **quality** of the interpretation varies and in one case no interpretation was given in the language requested by the requested person. Some requested persons complain that the quality of the interpretation is not of adequate standard for them to fully understand their rights and follow the proceedings.
- The interviewees reported that both the **police and the prosecution services do not treat translation and interpretation as a substantive aspect of the process**, but rather as a **formality. Interpreters invariably do not explain the rights** requested persons have but only read out what is printed in the letter of rights.
- All interviewees responded that they are **not informed of their right to access their file** and for the documents to be translated to them. **Access to the file and translation of the EAW content may be possible** only if the requested persons' lawyers demands this in court, which does not always yield results as courts invoke the tight timelines that have to be met.
- All interviewees reported that **no state-paid interpretation** was provided for them for consultations between requested persons and lawyers. In some cases, they were unaware of their right to free interpretation, despite having legal representation.

3. Right to access to a lawyer

a. Information about legal assistance (including on dual representation)

Table 9: Were the requested persons informed of their right to access to a lawyer in the executing Member State?

CYPRUS	Requested person 1	Requested person 2	Requested person 3	(lawyer of) Requested person 4	(lawyer of) Requested person 5	Total
YES						
In writing	√	√	√	√	√	5

⁷ Cyprus, Law on the rights of suspects, persons arrested and persons remanded in custody of 2005 ([Ο περί των Δικαιωμάτων Υπόπτων Προσώπων, Προσώπων που Συλλαμβάνονται και Προσώπων που Τελούν υπό Κράτηση Νόμος του 2005](#)) N. 163(1)/2005, article 3(4).

Orally						
In writing and orally						
NO						
Don't know/remember						
Did not answer						

Table 10: Were the requested persons informed by authorities of their right to access to a lawyer in the issuing Member State?

CYPRUS	Requested person 1	Requested person 2	Requested person 3	(lawyer of) Requested person 4	(lawyer of) Requested person 5	Total
YES						
NO	√	√	√	√	√	5
Don't know/remember						
Did not answer						

b. Legal assistance in executing state (access, consultations, lawyer's tasks)

The right to a lawyer in the executing state is mentioned in the document of rights but is not orally explained. All requested persons had knowledge of it because it also exists in most national legal systems and not because they read and understood the document of rights or because it was orally explained to them:

- *No-one informed me orally of my right to a lawyer. This was only mentioned in the document of rights that was handed to me. No-one explained how I can exercise this right. At the beginning when I was arrested, I was not given access to a phone to call my lawyer. When I visited the airport to have my documents stamped, I was with a friend and when I was arrested, my friend left and contacted a lawyer and an interpreter for me. The lawyer was located by a pro-Kurdish rights activist. Nothing was mentioned to me about legal aid; it was mentioned in the document of rights, but this was not explained to me and I did not understand it. They gave me 5-10 minutes, they asked me if I was OK and I signed.*
- *The police did not help me, they just gave me a phone to call and say I was arrested. There was no interpretation at the time, I did not understand much. No list of legal aid lawyers was given to me, nor was legal aid explained. I did not have an interpreter then. I was not given the chance to search on the internet for a lawyer. I chose my lawyer myself through my friends and I was allowed to contact him. When I mentioned the lawyer's name, the police contacted him, there was no problem there. I met my lawyer outside the court room, no statement was taken from me at the police station. At the first hearing, I was given 30 minutes with my lawyer to discuss the case.*

Another requested person stated that the police may exercise discretion not to hand the document of rights where they believed it is 'not needed':

The first time round, in 2008 the police gave me a document with my rights which included the right to a lawyer. The second time, when they arrested me in 2022 they did not tell me nothing, nor did they hand to me any bill or rights. In any case, they knew I was a lawyer and perhaps they assumed that I did not need that information...I had a lawyer all along, I did not need the help of the police to instruct one. The police already knew that.

Certain characteristics of the case, like the fact that the interviewee is already serving a sentence and the fact that the EAW at hand concerned a conviction rather than charges awaiting trial, presumably leads the police to conclude that observance of procedural rights under the EAW law was unnecessary. For instance, meeting with their lawyers before appearing in Court is a challenge for those requested persons who are already serving a prison sentence. In the case of those requested persons serving prison sentences, the police do not give adequate notice or information before transferring them to court and, although all requested persons know of their right to appoint a lawyer and they all have a particular lawyer whom they used in the past and wanted to use again, there is not sufficient time for a meeting with their lawyer before they were presented in court. As stated by one of the requested persons:

I did not have the opportunity to talk to my lawyer before being presented to court. Inside the courtroom, when the judge realised I was without a lawyer, he adjourned the case and gave another date for the next hearing in order for me to attend with my lawyer.

A lawyer described how the police deprive his client, who was a prisoner, of the right to consult with him before being taken to court:

The police essentially tricked my client in order to present him to court. My client called me from the prison at 5pm the day before the court hearing, telling me that he was informed he was to be presented to court the following day. It turned out that the police first filed the applications for the execution of the EAW and only informed my client after that. This is confirmed from the dates of filing the applications. I went to court and asked at the Registrar and it was from there I discovered that there were three EAWs to be executed. The police did not tell him anything about the charges until they presented him before the court.

c. Legal assistance in issuing state (access, consultations, lawyer's tasks)

The authorities' duty as regards legal assistance, as set out in the EAW law,⁸ is only partially complied with. The right to have a state paid lawyer in the issuing state is neither communicated to requested persons nor implemented in any of the cases known to the interviewees. One of the lawyers interviewed expressed an overall feeling that courts do not normally inform requested persons of their right to a lawyer in the issuing state, in the hope that the procedure might finish faster and the extradition will be completed swiftly. The lawyers reported that the police never offer any help in locating a lawyer in the issuing state as it tends to focus on extraditing requested persons as quickly

⁸ Cyprus, Law on the European Arrest Warrant and the Procedures for the Surrender of Wanted Persons between the Member States of the European Union Law of 2004 ([Ο περί Ευρωπαϊκού Εντάλματος Σύλληψης και των Διαδικασιών Παράδοσης Εκζητούμενων Μεταξύ των Κρατών Μελών της Ευρωπαϊκής Ένωσης Νόμος του 2004](#)), articles 17(b) and (c).

as possible. They added that they never came across a case where the authorities provide assistance or even information about the right to appoint a lawyer in the issuing state. As stated by two of the requested persons:

- *I had a lawyer in Germany, but he was located by my Cypriot lawyer. He was not identified by the court. No-one told me that I was entitled to help in order to locate a lawyer in Germany, my lawyer tried hard to locate one. No-one told me I was entitled to legal aid for the lawyer in Germany. The lawyer in Germany was very helpful.*
- *No, no-one told me I had the right to a lawyer in the issuing state. I had to instruct a lawyer in England myself and I had to pay for him because the authorities in England refused to grant me legal aid. I found the solicitor in England myself, as I am a lawyer myself and I have friends there. You can imagine what would happen to a requested person who isn't a lawyer.*

One of the lawyers explained that the document of rights customarily handed by the police to requested persons is not drafted having in mind the EAW; it is the same document of rights they use in all arrests, and it is tailored along the national arrest law, mentioning only the rights guaranteed to arrested persons under the national framework:

Rights which are exclusive to the EAW procedure are not mentioned in the document. So the document mentions the right to a lawyer in Cyprus but not the right to assistance to appoint a lawyer in the issuing state.

In a case which made it to the Supreme Court, a requested person facing EAW proceedings asked the Cypriot trial court for an adjournment in order for time to be given to his lawyer in the issuing state to study the case file provided by the Ministry of Justice and to advise him accordingly. The trial court rejected the request for adjournment and the requested person appealed the decision and won.⁹ The appeal court ruled that the requested person had been deprived of his right to a fair trial, annulled the trial court decision executing the EAW and ordered a re-trial. One of the lawyers stated:

The biggest problem we face for effective protection of procedural rights and particular the right to appoint a lawyer in the issuing state is the tight deadlines foreseen in the regulations for issuing a decision on EAW executions. In Cyprus trial courts must issue a decision within 35 days which is far too tight. By the time we identify lawyers in the issuing states, by the time we instruct them, by the time they need to contact the competent authorities and obtain the case file, the timeline of 35 days expires. The court needs at least a week to study the submissions and issue a decision. The process is far too long and time consuming to be completed in 35 days.

⁹ Cyprus, Supreme Court (2022), Appeal Jurisdiction, [Y.B.L. v. Attorney General of the Republic](#), Ref. E.E.E.S No. 1/2022, 4 November 2022, ECLI:CY:AD:2022:A494.

d. Communication between the lawyers in both states

The importance of collaboration between lawyers in state is often crucial for safeguarding rights of requested persons. However, this in practice happened in cases where the requested person has the means to pay. The collaboration between the two lawyers was often crucial in order to ascertain whether the requested person would be permitted to serve a sentence in Cyprus, which would in turn determine whether the requested person would consent to being surrendered. In some instances the lawyer in the issuing state would travel to Cyprus to provide advice and to testify in court.

e. Free of cost access to a lawyer (or legal aid)

Some of the requested persons did not claim legal aid because a lawyer was identified and instructed for them by organisations representing their ethnic community. Other requested persons do use legal aid for their lawyer in Cyprus, however there was no instance where they were informed by the authorities about their right to legal aid in a comprehensible manner. The right to legal aid is mentioned in the document of rights handed to all at different stages of the procedure but none of the interviewees found out about their right to legal aid by reading this document. The requested persons serving a sentence were handed the document of rights once they were already in the courtroom, just before being presented to the judge. One of the lawyers stated:

The document of rights mentions the right to legal aid but it is a very long document and in a complex language that is not readily comprehensible, especially under the circumstances in which my client found himself.

Requested persons appearing in court without a lawyer may be unaware of their right to legal aid or may have to face a judge arbitrarily refusing legal aid, invoking the tight deadlines for completing the execution of the EAW. A lawyer stated:

I remember a case where the judge refused to grant legal aid to a person wanted under a EAW, who was serving a prison sentence and lacked sufficient means to pay for lawyer. Throughout the hearing the defendant stood in the courtroom and kept saying that he wanted a lawyer and he could not afford to pay for one and the judge ignored him. We subsequently helped him file a handwritten appeal and when the Supreme Court examined the facts it immediately granted him legal aid and ordered the setting aside of the trial court decision and a re-trial with a legal aid lawyer.

In all cases, the lawyer in the issuing state was paid by themselves, either because they were not aware of their right to claim legal aid in the issuing state or because, in the interests of saving time to meet the tight deadlines, they simply appointed the lawyer in the issuing state who was identified by their lawyer in Cyprus.

f. Challenges

The length of the proceedings generates anxiety to requested persons who feel their presence in Cyprus and their future is uncertain. As reported by one of the requested persons:

I am outside but I am still like a prisoner, I cannot travel, I cannot participate in events, there is nothing for me here in Cyprus. In order to participate in organisations of the Kurdish cause, I need to travel.

The critique expressed regarding police practices was that it refrained from providing clarifications, explanations or assistance for the implementation of the requested persons' procedural rights. In all cases examined, there was little or no meaningful interaction with the police, who were described as approaching rights like a matter of routine and a ticking of a box rather than a substantial part of the procedure. A requested persons stated:

The police were very good to me but they were not trained on the EAW; it's not their fault but they do not have the necessary knowledge of the procedures. I asked them if I could discuss my case with them to explain the details but they declined, stating that the case can only be discussed in court.

In one case however, the police asked the requested person to strip to be searched for drugs before being admitted to the central prison, which was particularly humiliating for him:

In Turkey they ask us to strip and we as fighters of the Kurdish cause refused to remove our clothes as it is humiliating. In Cyprus they forced me to remove my clothes before going to jail. This was a terrible experience. I asked why they forced me to strip and they said they had to check me for drugs. This bothered me a lot, because all my life I have been totally against drugs. It was very humiliating. Only for this reason I was hoping that I would be released on bail.

The tight deadlines for issuing a decision were repeatedly highlighted by the two lawyers interviewed as the cause of infringement of procedural rights:

Often the lower courts consider some procedural rights as secondary when juxtaposed with the need to keep the deadlines. It is then up to the Supreme Court, if the case ever reaches that stage, to rule that procedural rights are fundamental and to grant them even at the expense of missing the 35 day deadline. Requested persons who are serving a sentence in Cyprus and are of insufficient means and do not speak Greek or English are at great risk of having their procedural rights ignored. If there is a EAW for serving a sentence, then it is fundamental part of due process to check whether the person had a fair trial in the issuing state.

g. Discussion of findings

The right to a lawyer in the executing state is mentioned in the document of rights but is **not orally explained**. All requested persons have knowledge of it because it also exists in most national legal systems and not because they read and understood the document of rights or because it was orally explained to them.

The right to appoint a **lawyer in the issuing state is not explained** to any requested person interviewed. Lawyers interviewed suggest that courts do not normally inform requested persons of their right to a lawyer in the issuing state, in the hope that the procedure might finish faster, and the extradition will be completed swiftly. The police do not offer any help in locating a lawyer in the issuing state as it tends to focus on extraditing requested persons as quickly as possible.

The requested persons' **trust in their lawyers essentially replaced the procedural safeguards** of the EAW law, as requested persons' relied on their lawyer to fill in the gaps of the system as regards information, interpretation, translation and appointing a lawyer in the issuing state. This begs the question of the treatment that persons without a lawyer receive in the EAW process. Dual representation and accessing legal aid in the issuing member state emerged as the most consistent gap, which lawyers were not always in a position to fill in, either because there was no time or now knowledge of the right to legal aid in the issuing member state.

The importance of collaboration between lawyers in the requesting and the issuing states is often crucial for safeguarding rights of requested persons. However, this in practice happened in cases where the requested person has the **means to pay for the lawyer in the issuing state**.

Some of the requested persons did not claim legal aid because a lawyer was organised for them by organisations representing members of their ethnic community. Other requested persons use legal aid for their lawyer in Cyprus, however there was no instance where their right to legal aid was explained to them in a comprehensible manner. The right to legal aid is mentioned in the document of rights handed to all at different stages of the procedure but none of the interviewees found out about their right to legal aid out by reading this document. The requested persons serving a sentence are handed the document of rights once they were already in the courtroom, just before being presented to the judge.

Requested persons appearing in court without a lawyer may be unaware of their right to legal aid or may have to face a lower court judge arbitrarily refusing legal aid invoking the tight deadlines for completing the execution of the EAW. Judicial practice at the Supreme Court is reportedly more respectful to procedural rights rather than **lower courts where the prevailing approach is to meet the deadlines**.

In all cases, the lawyer in the issuing state was paid by themselves, either because they were not aware of their right to claim legal aid in the issuing state or because, in the interests of saving time to meet the tight deadlines, they **simply appointed the lawyer in the issuing state who was identified by their lawyer in Cyprus**.

The document of rights customarily handed by the police to requested persons is not drafted having in mind the EAW; it is the same document of rights they use in all arrests, and it is tailored along the national arrest law, mentioning only the rights guaranteed to arrested persons under the national framework.

4. Execution of the EAW

For those requested persons already serving a prison sentence for a different offence, the police practice appeared to be the handing of the document of rights as a mere formality just before entering the courtroom and no other information, suggesting that the police had already presumed the requested persons guilty of the offence in the EAW too, presumably warranting lesser observation of their procedural rights. Two interviewees spoke about considerable delays in executing EAWs where

they related to sentences already passed in other member states. Incidentally, both interviewees were at the time serving a prison sentence in Cyprus:

- *The European Arrest Warrant was issued against me in England, first in 2008 and then in 2016. It finished in November 2022. It would start, it would stop and then it would start again. It started when England was still in EU and finished after Brexit... Although the arrest warrant was issued against me in 2016, it was only in 2022 when the Cypriot police decided to arrest me.*
- *In 2017 I was arrested in relation to my conviction in Poland and I asked for court permission to serve my sentence in Cyprus. However that case did not proceed and I was released. I was then arrested again in 2020 for the same conviction and the case did not proceed at that point either. Two years later I was transferred from prison to the court regarding an EAW, presumably the same EAW as the one I was arrested twice in the past, and I was presented in court without a lawyer.*

The lawyer of the second interviewee suggested that the reason behind this police practice is to prolong the period of detention by avoiding the execution of a EAW at a time where the sentence might concur with another sentence already being served by the requested person. Another lawyer also took the view that the authorities in Cyprus were deliberately delaying the execution of EAWs where the requested person was facing other charges:

The EAW procedure involving my client was completed but he is now serving a sentence in Cyprus for another offence, for which he also applied to the ECtHR. The odd thing about his case is that although the authorities had received the EAW from the issuing state they refrained from executing it for two and a half years, waiting for the other charges against my client to be tried. The Cypriot authorities knew from 2019 about the three EAWs and did not proceed in parallel; they waited for the other trial before the assizes court which took 2 and a half years to be completed and then proceed with the execution of the EAWs against him in court.

The lawyer stated that the EAW law should be amended to include a procedure on how EAW must be executed when the requested person is already in prison:

The transfer of a prisoner from the prison to the court without telling him anything and after the police already filed for the execution of the warrant should not be permitted. The time pressure of having to complete the procedure within 90 days often operates at the expense of the rights of requested persons.

The practice followed in Cyprus where there are multiple arrest warrants pending against a requested person is for each EAW to be tried by a different court, which in turn will issue consecutive rather than concurrent sentences, leading to excessive prison terms that potentially violate the ECHR.

The interviewees described inconsistencies in the practice followed by the authorities as regards execution. In one case, the requested person who had strong ties with Cyprus did not consent to his extradition to the issuing state for a case where there was already a conviction against him because no guarantees were provided that, if convicted, he could serve his sentence in Cyprus. Oddly enough the authorities provided guarantees to the same requested person that he could serve a sentence in Cyprus in relation to two other EAWs issued against him, where the charges had not yet been tried.

Another requested person consented to be handed over to the issuing state after having been advised by the lawyer in the issuing state that the issuing state authorities would issue a European supervision order enabling him to serve his sentence in Cyprus where he had his permanent residence. This only became possible because the requested person appealed the trial court decision which had refused to grant an adjournment so as to enable the lawyer in the issuing state to adequately study his case.

In the case of the requested person who was caught in between the change of the system during Brexit, it emerged that, whilst all formalities were complied with in 2008, in 2022 there were no procedural safeguards in place and no-one including the judge were sure what the applicable legal framework was. This was particularly striking in the case of the specialty rule, where the British authorities were not answering whether they would apply it which in turn prompted the Cypriot authorities to refrain from giving the confirmation that he would not be tried for any other offence in case he consented to be surrendered:

The judges in Cyprus are not trained on the EAW. At the beginning we were considering challenging the case on the basis of the long time that has elapsed. Then my lawyers said the judge was young and inexperienced and there was little to gain by introducing this argument.

CONCLUSION

The study located problematic practices in the safeguarding of procedural rights of requested persons at all four levels covered: provision of information, interpretation and translation, access to a lawyer and execution of the EAW.

The provision of information before entering the court room essentially consists of a document of rights of several pages in complex legal language handed by the police to requested persons either upon arrest, at best, or before entering the court room which seems to be the practice where the requested person is serving a sentence for another offence. Although this document is available in several languages, it reportedly does not include rights specific to the EAW such as the specialty rule and dual representation. No oral explanation is provided to requested persons at any stage as regards their rights, except sometimes by the judge inside the court room. At that stage, the quality of the interpretation is crucial for the requested person to understand the judge's explanations and this is not always the case. The handing of this document appears to be regarded by the police as a mere formality rather than an essential right that can impact the right to a fair trial. No interpretation is offered by the police upon arrest or during police detention.

The judicial process is permeated by the need to finish the procedure as quickly as possible in order to meet the tight deadlines foreseen by the regulations, often at the cost of the defendants' procedural rights. This appears to be more the case at the lower courts rather than at the Supreme Court, which has on instances set aside lower court decisions for executing EAWs without due observance to the defendants' procedural rights and ordered re-trials. Interpretation is invariably offered inside the court room although not always of a satisfactory standard and not always in the language chosen by the requested person. The courts are however likely to adjourn a procedure if the requested persons claim that they do not understand the interpretation. Translation of the file documents is one of the rights reportedly never communicated to requested persons; translation of

some of the document files are given only if requested by the lawyers and usually only in the language understood by the lawyer and not necessarily the requested persons themselves. The justification offered by judges is again the tight deadlines that need to be met.

The right to a lawyer in the executing state emerged as one of the better known rights and vary rarely would problems be encountered in accessing a lawyer. If the police fails to secure that right before entering the court room, the court is very likely to adjourn the proceedings in order for the defendant to get legal representation. Only one case was reported where, in the interests of meeting the deadlines, a lower court judge refused legal aid to a requested person, but this was overturned by the Supreme Court that ordered a re-trial. A gap remains in accessing a lawyer in the issuing member states, as this right is neither communicated nor implemented. In the interests of meeting the tight deadlines, lawyers in the executing state advise their clients to instruct a lawyer in the issuing state already identified and known to them, as the process of claiming legal aid in the issuing member state, identifying and instructing a lawyer is likely to be very time consuming.

A rather different treatment is afforded to requested persons already serving a prison sentence for a different offence, where the police is reportedly unwilling even to provide the document of rights or to give the requested prisoners sufficient notice of the EAW to enable them to contact their lawyers. Police practices reportedly suggest a presumption of guilt in the case of persons serving a sentence and/or persons requested for a sentence imposed by another member state. This is potentially an area in need of specific legislation regulating the process by which people serving a sentence or requested in order to serve a sentence are treated in the context of executing a EAW. Further legislation is presumably needed to ensure that deadlines for delivering decisions do not operate against the procedural rights of requested persons.