

# Social Fieldwork Research (FRANET)

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

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Contractors:

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## **EXECUTIVE SUMMARY**

### **Right to information**

The research results show that requested persons are given information about their rights and the EAW issued against them. This information is provided in writing and/or orally. All requested persons are given a standard letter listing all the rights of requested persons. The Attorneys-General and the judges aim to ensure that requested persons understand the information given to them about their rights and their detention. Requested persons are provided with information on the content and procedures of the EAW, including the speciality rule on consenting or not to extradition under the EAW. The warrant is explained to the requested persons several times to ensure that they are well informed about it. However, some legal practitioners tend to consider that the information provided on the content of the EAW is too detailed and should be simplified and made more understandable. However, requested persons understand the information provided to them. Officers treat all requested persons with respect.

### **Right to interpretation and translation**

The services of a translator for communication between the lawyer and the requested person are provided free of charge by the Lithuanian State. Requested persons have the right to have a translation into their mother tongue or into a language they understand. Court hearings are recorded and an interpreter is called in immediately if there is any doubt as to whether the person understands Lithuanian. Requested persons are served with the European Arrest Warrant translated into a language they understand. During the court hearing, the requested person is provided with interpretation services and the final documents are translated and provided to them in writing. The interpreter can be physically present or be working remotely. Challenges arise when interpreting from some languages, e.g. younger Lithuanian officials do not speak Russian. In addition to Russian, translation into lesser-known languages, such as Arabic or Chinese, poses difficulties. The lack of interpreters for these languages creates secondary problems: it delays the procedures because it takes time to find a qualified interpreter. Translation problems arise in non-EEA cases and are linked to the poor qualifications of some translators.

### **Right to access to a lawyer**

Requested persons have the right to a lawyer. This can be a State-guaranteed lawyer or a private lawyer. Requested persons have the right to contact their relatives and ask them to find a lawyer, or to have access to a private lawyer if the requested person has a contract with one. If a requested person does not have their own lawyer, they will be informed that a public lawyer will be appointed for them. Requested persons are informed of these rights in writing immediately after arrest. However, it is not clear from the fieldwork data whether persons are informed of the right to have a lawyer in the issuing State. Requested persons are guaranteed legal aid, but are not provided with a list of lawyers from which they can choose their preferred lawyer. Requested persons can communicate with their lawyers whenever they need to. If a requested person knows a lawyer who works as a State-guaranteed lawyer, they can ask the officials to contact and appoint this lawyer. Requested persons may request to have a State-guaranteed lawyer replaced with a lawyer of their preferred gender. However, this is not widespread or frequent. In Lithuania, in practice, lawyers do not communicate with lawyers working in the issuing State. As regards the provision of legal aid, it is a problem that in some cases the courts oblige the accused to pay the costs of a State-guaranteed lawyer. In addition, requested persons are sometimes ordered to pay extradition costs. These practices are contrary to the principle of free legal aid.

## **Execution of the EAW – factors considered**

When it comes to the execution of the European Arrest Warrant, requested persons sometimes agree and sometimes refuse to be surrendered. The main reasons for accepting execution of the EAW are to avoid time-consuming surrender procedures and to reduce the time spent in the detention facility of the executing State. Surrender is also accepted if the requested person believes that good prison conditions await them in the issuing State. When surrender is refused, such decisions are usually based on the existence of a serious alibi, health problems, or when the defence has identified fundamental errors in the issuing of an EAW against the requested person. Requested persons also refuse to surrender when they want to serve their sentence in their home country – which is allowed by internal agreements between EU countries – where their social life (family, home) is. Finally, requested persons also refuse surrender because they do not want to pay the costs of the extradition procedure. Requested persons have the right to change their mind about the decision to refuse or accept surrender. In Lithuania, officials treat requested persons with respect and requested persons are treated well, according to some lawyers, even too much respect compared to other requested persons. Some lawyers believe that, from the judicial side, the process of executing EAWs is too rigid, it disregards the interests of the requested persons, and too often accepts the arguments put forward by the authorities of the issuing States for the detention of the person. Some lawyers consider that the period of detention is too long and detrimental to the interests of requested persons.

## INTRODUCTION

A total of five interviews were conducted between 20 February 2023 and 7 March 2023. Five defence lawyers were interviewed.

The interviews were conducted either face-to-face or by electronic means. Two interviews were conducted face-to-face and, in the interviewees', working place and 3 – by electronic means. The interview time was agreed in advance, participants willingly allocated their time for the interview. A good internet connection ensured the smooth running of the interviews via electronic means. The interviews were conducted via video, allowing the interviewees to see each other's body language and emotions. All interviews were audio recorded, with verbal and written consent from the interviewees.

### ○ PREPARATION OF FIELDWORK, IDENTIFICATION AND RECRUITMENT OF PARTICIPANTS

The interviews were carried out by researchers with sufficient experience in such research. Therefore, no need for extensive training on the interview process, ethics or data analysis was required. During the inception meeting held by the FRA an interview reporting template for the requested persons' category and one for the lawyers' category were discussed. The methodological tools for the study were developed by the FRA team. Subsequently, the survey instruments (questionnaires for different groups – requested persons, lawyers), report templates, consent forms and privacy notice were translated into Lithuanian and sent to the FRA team for approval. The FRA team provided a letter of support to the Lithuanian research team. The letter contained an explanation on the importance of the study and an invitation for potential participants to take part in the study in Lithuania.

A list of potential interviewees was compiled by a team of Lithuanian researchers. Potential interviewees from requested persons' background were sought on the basis of their personal experience in European Arrest Warrant cases. In the case of requested persons, the recruitment process was more challenging than expected. An attempt was made to reach out to them via defence lawyers, including lawyers previously interviewed for a similar FRA research. However, the research team was not able to identify or get in touch with current or former requested persons. It was therefore decided to focus on the lawyers of requested persons.

Defence lawyers were contacted through the Council of the Lithuanian Bar. The Council was asked to provide support in the recruitment process, by providing the addressees with a detailed description of the subject of the research and the interview process. It was stressed that the interviews could be carried out at a time, place and in a form convenient to them (face-to-face or via electronic means). Defence lawyers were first contacted by email (including a follow-up letter sent to remind them that they had been sent an invitation to participate in the study) and then by telephone. A sufficient number of lawyers responded to the invitations to participate in the research. The interview data in this report are presented in accordance with the requirements of research ethics, i.e. in such a way that the interviewees cannot be identified.

Requested persons:

Requested: 5, completed: 0

Defence lawyers:

Requested: 5, completed: 5

**Table 1: Sample professionals**

	<b>Group</b>	<b>Gender</b>	<b>Length</b>
1	Defence lawyer	male	51:07 min
2	Defence lawyer	female	50:51 min
3	Defence lawyer	male	33:38
4	Defence lawyer	female	42:44
5	Defence lawyer	male	54:25

Interviews varied in length: the shortest interview lasted 33 minutes. The longest interview lasted 54 min. The average length of the interviews was 46 min. The interview atmosphere was open, friendly and based on mutual trust. We also believe that the fact that the research was initiated and supervised by the Fundamental Rights Agency led to a positive attitude towards the research.

- **DATA ANALYSIS**

Each interview was transcribed using automatic transcription. These transcriptions were then checked word for word to ensure that the information provided during the interview was understood and correctly presented. The transcripts were then read carefully. Finally, they were used as a basis for the FRA interview report templates. Further analysis of the data collected during the interviews involved identifying, examining and interpreting patterns and themes in the data, focusing on the patterns and themes in the data provided by the advocates, and identifying how these patterns and themes contribute to answering the research questions.

- **BRIEF OVERVIEW OF THE REPORT'S CONTENTS**

This report presents the findings of Social Fieldwork Research (FRANET) on European Arrest Warrant (EAW) proceedings – safeguards for requested persons in the Lithuania Perspective of requested persons. The report aims to provide evidence-based advice on practical aspects of procedural rights in European Arrest Warrant proceedings in Lithuania and to contribute to the proper implementation of fundamental rights and secondary EU legislation at Member State level as concerns specific aspects of the procedural rights of persons being sought under the European Arrest Warrant. The report contains four sections: **right to information, right to interpretation and translation, right of access to a lawyer and issuing and execution of the EAW**. Each section of the report contains research findings from the qualitative interviews with lawyers on the practical implementation of the EAW and requested persons' experience when being served with an EAW. The interview questions addressed the rights of a requested person (right to information, right to interpretation and translation, right to access to a lawyer) as well as the practical aspects of the issuing and execution of the European Arrest Warrant.

## RESEARCH FINDINGS

### 1. Right to information

#### a. Provision of information (when, how by whom)

Interviewed defence lawyers claimed that information is provided to detained persons during the arrest. Several research participants mentioned that this is also done later after the arrest, when the prosecutor reads the decision on the application for a detention order. Another defence lawyer elaborated further on this. According to the lawyer when the detained person comes to the prosecutor's office for questioning, the prosecutors re-explain the rights. First of all, they ask the person whether they have received a sheet of rights. Even if they have already received it, they ask the person if they have understood what was written in it, and if they have understood it, then in addition to that, they explain the rights orally. Should the person have any questions, they can consult with their lawyer, who is present. The interviewee mentioned that there is a kind of duplication here, regarding the provision of information on persons rights, but it is useful.

Interviewed lawyers said that detained persons receive information in a written form. Police officers provide requested persons with a five-page document where all their rights are listed. The detained person has to sign a declaration that the information has been provided to them, so the process is thoroughly documented, as described by some interviewed lawyers. Some lawyers mentioned that during arrest persons are also informed about their rights in an oral form. Later during the arrest, prosecutors provide information or explanations in an oral form as well. All the information is provided by police officers and prosecutors.

#### b. Information about rights

Although lawyers, are not present at the time of detention, interviewed lawyers stated that persons are informed about their rights. Most lawyers stated that this is done in a written form. Persons are informed about all their rights, including basic information such as the right to legal defence (if the person says that they do not have a lawyer, a State-guaranteed lawyer is immediately contacted as is enshrined in the Code of Criminal Procedure), the reasons for which the arrest warrant was issued as well as the reasons for their arrest. Later, when the prosecutor reads the decision on the application for a detention order, they indicate what the person is being subjected to in the foreign State and which law of the Lithuanian State the violation corresponds to. In addition, as explained by one interviewed lawyer, when the person comes to the prosecutor's office for questioning, the prosecutors re-explain the rights.

Table 2: Were the requested persons informed about their procedural rights?

LITHUANIA	Defence lawyer 1	Defence lawyer 2	Defence lawyer 3	Defence lawyer 4	Defence lawyer5	Total
YES	x	x	x	x	x	5
In writing (letter	x	x	x			3

of rights)						
Orally						
In writing (letter of rights) and orally				x	x	2
<b>NO</b>						
<b>Don't know/remember</b>						
<b>Did not answer</b>						

c. Information about the EAW – content and procedure

According to the interviewed defense lawyers, usually when the lawyer arrives, detained persons already know why or for what offenses they are being detained. However, if a person is wanted for several offenses, they may not know for exactly what they are wanted.

This is also explained to them in a written form, although here the interviewed lawyers provided differing information. The detained person is required to sign a declaration confirming that they have been informed of everything. According to one lawyer this must be done, because otherwise the person could say that they were not informed. One lawyer had a Lithuanian client for whom an arrest warrant was issued in Poland. The warrant was translated into Lithuanian and sent to him via email. One lawyer said that the European Arrest Warrant is explained in a written form. The lawyer has the opportunity to read it as the prosecutors are usually kind enough to forward it to the lawyer, and thus the lawyer gets the information in advance. When the person reads it, the prosecutor explains each line, and if anything is unclear, it is explained separately. However, the interviewee said that a lot of unnecessary information is given as sometimes the requested person only wants to know what they are accused of.

However, one lawyer claimed that information on what sentence has been imposed on the person, what offences they have been convicted of in the foreign country, and how those offences comply with the Lithuanian Criminal Code, are explained verbally. The interviewee felt that prosecutors should make an effort to translate the arrest warrant, but in abbreviated form, and to submit a statement from the prosecutor's office to the requested person, so that they can be informed before the hearing, before the decision on their arrest is taken. This information should be given in written form when the person is under suspicion. As the lawyer stressed, when information is explained verbally, and people are under stress, they don't always fully understand legal terms. Another interviewed lawyer stated that a written statement is handed to the person for information and in the case of a pre-trial detention order, the person is informed orally.

**Table 3: Were the requested persons informed of the contents of the EAW against them?**

Lithuania	Defence lawyer 1	Defence lawyer 2	Defence lawyer 3	Defence lawyer 4	Defence lawyer 5	Total
<b>YES</b>	x	x	x	x	x	<b>5</b>
In writing	x	x	x			<b>3</b>
Orally				x		<b>1</b>
In writing and					x	<b>1</b>



orally						
<b>NO</b>						
<b>Don't know/remember</b>						
<b>Did not answer</b>						

d. Information on consenting to surrender

All of the interviewed defence lawyers, except for one, said that the speciality rule is explained to requested persons – i.e. the clause that if they are transferred to the requesting country, they can only be prosecuted for the offence specified in the EAW. It is also explained to them that they can accept or waive the simplified procedure and what happens should they make one or other decision. This is explained by the prosecutor. Sometimes this explanation is provided remotely. According to one lawyer, when the prosecutor, the lawyer and the person requested to be handed over meet each other, the person can ask questions about anything they do not know or understand. The person is told what the extradition procedure might be and it is explained to them how many more days the person has if they agree to be transferred in a simplified way, which can make the process less complicated. They explain to the person that it is possible to write complaints, to submit documents, to provide some kind of evidence. According to the lawyer, all this is explained verbally during such a meeting. However, other interviewed lawyers, stated that this information is provided in a written form. This discrepancy in the opinions on how requested persons are informed about the issues might be clarified by one interviewee's statement that the Prosecutor General's Office sends all this information to the person in a written form, then a hearing is held, and the Prosecutor General's Office explains what the consent means. Another interviewee described the procedure in a similar way by stating that it [the consent] is always explained by the prosecutors and then there is a kind of check in the district court, because the prosecutor of the General Prosecutor's Office explains the rule to the person and the prosecutor has to record in the minutes whether the speciality rule has been explained to the person or whether the person has agreed or not to the application of the speciality rule. Accordingly, later in court, the judge asks the same question again and the answer is recorded. According to the lawyer, there is always a re-examination.

Table 4: Were the requested persons informed about what consenting to their surrender entailed?

Lithuania	Defence lawyer 1	Defence lawyer 2	Defence lawyer 3	Defence lawyer 4	Defence lawyer 5	Total
<b>YES</b>	x	x		x	x	<b>4</b>
<b>NO</b>			x			<b>1</b>
<b>Don't know/remember</b>						
<b>Did not answer</b>						

e. Understanding of information

Most of the interviewed lawyers said that their clients understood the information that was provided to them. Some lawyers said that they would also double check whether requested persons understood

it. In the case of any questions, requested persons can always contact the lawyer by phone from prison and prosecutors make sure that the detained person has understood all the information provided to them. As described by one lawyer, there are three entities that check whether a person has understood the information explained to them: the Prosecutor General's Office, the court and the lawyer. The EAW charges are simple, usually covering just a few points, so generally people understand what is written in the indictment:

*here, you see, as far as the police are concerned, they actually only explain the rights with regard to detention, they are not obliged to explain with regard to the European arrest [...] they explain the rights of the detained person. Then there are actually three entities which, in my opinion, look at the person, check whether they have understood – the Prosecutor General's Office, the prosecutor, who explains or fills in the report, then the court, and the third entity is the defender, the lawyer, who always looks to see whether the person is following what is being said, in the sense of whether they understand what is being said to them, and how many years of education the person has had – whether they have three years of education or whether they have a higher education, because this is also very important [...] On the other hand [...] it is not as complicated as, for example, [...] in criminal cases, VAT embezzlement and so on. There are 300 pages of indictments, and the same person is asked if they have understood what they are charged with. [...] it is written here, however, [...] two small points, that [the person] is charged with this and that, so that [the requested persons] do not understand it, never happened once [...]. People have to say whether they understood what was written in the indictment.*

Regarding treatment of requested persons, all the interviewed lawyers said that usually persons detained according to an EAW are treated with respect and that no complaints have been received about being treated with a lack of respect. As one interviewed lawyer noted, the EAW process itself is conducted in an orderly manner and no pressure is put on the person. One lawyer, however, complained that even if the requested person agrees to be surrendered they are still kept in custody for a month or more, which in the lawyer's opinion is too long.

#### f. Discussion of findings

The research findings demonstrate that different types of information (on rights, EAW content and procedure, speciality rule) is provided to detained persons in multiple stages of the detention period. Information is provided by police officers and prosecutors in written and/or oral forms. Moreover, officers, e.g. general prosecutors, take care to ensure that requested persons understand the information regarding their rights and arrest. Some lawyers indicated it as a good practice. A standard letter of rights is handed to all requested persons, who are also asked to sign the document confirming that they were provided with it. Detained persons are informed about their procedural rights in both writing and orally. As defined by the interviewed lawyers, requested persons, being aware of the illegal activities carried out abroad, tend to know the reason for their detention. Nevertheless, during and after detention, requested persons are also provided with information regarding the EAW's content and procedures. Most of the interviewed lawyers stated this is done in written form. The speciality rule or information on consenting to surrender is explained to requested persons. The consequence of accepting or waiving the speciality rule is also explained to requested persons. This information is provided in written form at the beginning of detention and orally, during the court hearings, by prosecutors and judges. Requested persons understand the information provided to them and are

well treated by the officers. The interviewed lawyers had no experience of cases that would illustrate the opposite.

The lawyers' opinions of the level of clarity regarding explanation of the EAW differed somewhat. Some interviewed lawyers claimed that the explanation contains too much information, which may be overburdening the whole explanation process. Other lawyers said that it would be better to have an abbreviated, simplified version of the warrant, which would be more easily understood by requested persons at such a stressful time. Despite this, the interviewed lawyers also stated that the warrant is explained to requested persons multiple times, to make sure they are well informed about it.

## 2. Right to interpretation and translation

### a. Provision of interpretation (decision and means)

Most the interviewed lawyers worked with Lithuanian-speaking clients. For them all the necessary documents were served in the Lithuanian language. None of the interviewed lawyers had communication problems with their clients. The lawyer makes a request for translation services and these are provided. The police also have their own translators and the court has its own.

According to one lawyer, requested persons are asked which language they wish to have the information translated into. If there is no translator available, the requested person is asked which language they speak and whether they speak English. If the person has some knowledge of English and agrees to an English translation, then that is what happens. The lawyer stated, however, that problems arise when Russian language translation is needed. Younger officers do not know it and interpreters are of low quality. Sometimes two translators may be needed. According to one of the interviewees, a person who does not speak Lithuanian is provided with a translator who translates the documents, usually orally. But for Lithuanian citizens, the EAW is translated in written form and presented in Lithuanian. According to the interviewed lawyer, both verbal and written translations are provided to individuals. According to another interviewed lawyer, the court always checks whether the person speaks Lithuanian, and if they do not speak at least a few words, a translator is immediately provided. This is because audio recordings are made during the hearing and any irregularity in the judge's testimony is not helpful. Furthermore, if it is recorded that the person needs a translator, the prosecutor's office sees the data, who was in court, what the decision was, whether or not a translator was present, and immediately arranges for a translator, if one is needed, as the prosecutor's office has its own translators. If the person does not need an interpreter in court but needs one in the prosecutor's office, an interpreter is called in. The interviewee stated that the translators work in the same building as the prosecutors.

### b. Translation of documents

All of the interviewed lawyers stated that the person is given the European Arrest Warrant translated into a language they understand. Some argued that accompanying materials are also translated, while other interviewed lawyers, claimed no additional document is provided. One interviewed lawyer claimed that the issue of translating the documents and making sure the person has understood all the information provided to him is looked at very carefully, as it can be grounds for lawyers to ask for a rejection, so the prosecutor's office does not make any mistakes here and all documents are translated. One interviewed lawyer had a somewhat differing opinion on the issue of how and when translations are provided. According to the lawyer, if the content of the European Arrest Warrant is being interpreted and a non-Lithuanian is involved, there is a translator who translates everything from the material in Lithuanian into a language understood by the requested person. Procedural decisions are usually translated in a written form. If a court makes a ruling or a decision, it is translated. During the hearing, the interpreter translates everything for the person. When the prosecutor reads his argument, the interpreter translates simultaneously, but the final document, if interpreted, is then handed to the interpreter in writing. Additionally, the lawyer said languages such as Arabic, Chinese

or some of the lesser-known languages are missing, but Polish, Lithuanian, Russian, English are available.

c. Interpretation of consultations with lawyers

Most of the interviewed lawyers had no difficulties communicating with requested persons, no interpreter was needed. Another lawyer recalled cases where the services of an interpreter were needed to communicate with a requested person. As claimed by several lawyers, requested persons do not have to pay for the interpreter. The interpreter can participate in person or remotely. The interpreter may be physically present, but if the process is taking place in a detention centre, then the person and the interpreter participate via on-line platform. The lawyer said that on-line communication became popular during the pandemic and that requested persons are now making great use of it. But, the lawyer pointed out that if the action takes place outside the prison, then usually the interpreter comes and participates in person. If the services of a translator are needed, it can be requested and these services are ensured. However, one interviewed lawyer, mentioned that sometimes problems arise regarding cases not related to EAW:

*Those interviewed [a person] remotely in Latvia, there was a case there. The Latvian was in court, but remotely. We were here in Lithuania, it was already online, we had a translator. It was a problem [because the translator] couldn't [translate]. I had to refuse it, because you can suspend a translator, you can say that he translates badly, but in this case all the participants in the trial saw that while the person could translate [something] about a goat or a cow, they could not translate about criminal responsibility. [...] There was a break and another translator was requested. And here, with these [EAW cases], there is no problem. Even when we get documents from abroad, where we get documents from abroad under an arrest [warrant], we get them in English, because the warrant comes in English, so the person doesn't have a problem that he doesn't have the right documents translated, or that they are not translated in the right way somehow. Even after that, as it happens that they are already present in the district court, they are already calm, they are already familiar with all the documents and they do not raise a problem. Because the district court is always asking if they have received the translation or if they are OK with it.*

One interviewed lawyer, elaborated on the issue by saying that people who speak Polish and Russian are usually fluent in Lithuanian too, but they are more comfortable communicating in their mother tongue. The interviewed lawyer knows Russian, so if the requested person wants to talk without a translator, then they can speak to the lawyer in Lithuanian or Russian. His clients of Polish origin also spoke Lithuanian very well. Before the pandemic, if a translator was needed, they were there. According to the lawyer, 90% of the requested persons ask to be kept in the detention centre and not be transported to the court because they have left their belongings there. It is in the interest of the requested persons themselves that everything takes place remotely. And in such a case, the interpreter would also connect remotely, but in the interviewee's practice there have been no such cases so far. According to the interviewee, requested persons did not have any comments on the interpretation services and usually they understood what was said to them in Lithuanian.

d. Additional best practices or challenges

An interviewed lawyer stated that there are problems with translation from the Russian language as younger officers do not know it and interpreters are sometimes not qualified for legal interpretation. Furthermore, one interviewed lawyer at the end of the interview stated that problems could arise in cases where translation from rarer and lesser-known languages was needed. The time taken to find a suitable translator would in turn delay the process.

*We had a discussion here and with colleagues... once my colleagues must have had a case, as far as I can remember, where a person declared that he didn't know... [...] knows a dialect of a language [...] there are no translators in Lithuanian... that person maliciously must have... because he used to speak English well, but then [...] suddenly forgets English and says no, I only speak that dialect. [...] in this case I do not envy the prosecutor's office and the court, because there is no such thing as a dialect in Lithuania, and it is as if rights have to be guaranteed. There are some curious situations where it is really impossible to solve them somehow and I have no idea how I as a lawyer should solve them, for example, [because] I don't know that dialect, there is no translator to talk to him, so how can I guarantee rights? Well, actually I can say, no, nothing can be done, but the procedure that nothing can be done doesn't mean that you have to let the person go, you know, because if you let the person go, maybe he is a drug addict? There's an accusation of burying five people and so on. All that tension is big enough. It is the language [...] if there is a difficult case, I have no idea how to deal with it. I read the manual a long time ago, maybe it is described there, but, you know, there are very specific languages, like Chinese. Obviously, I would find a Chinese translator, but that is already quite time-consuming. And if the deadline is, say, arrest, you have to release the person, and if you do not release the person, the lawyer has to say, all right, please, in the courtroom, take off the handcuffs, and the person goes wherever they want to go.*

Another interviewed lawyer, at the end of the interview spoke about the need to have the EAW, which is handed to the person, presented in a more comprehensible and more understandable form.

*...as I said, that the European Arrest Warrant should be [...] the Prosecutor General's Office should submit a statement on the European Arrest Warrant, where the criminal activities should be listed as corresponding to the articles of the Criminal Code of the Republic of Lithuania, what is the punishment in the foreign country for the criminal activities committed? I think that the European Arrest Warrant [...] is in a rather complicated form, it is not always detailed, it is only understandable, I would say, to lawyers [...], but for the person who is being asked for by the foreign State, it is not very clear and understandable. In order for a person to know exactly what they are being surrendered for, I think that the Prosecutor General's Office should prepare [...] [a] document [in one form or another] [...] [stating] [that the person] is being surrendered by a certain foreign State on these charges, which are in accordance with such and such article of the Criminal Code of the Republic of Lithuania and the punishment in the foreign State is as follows In order to know that the person [...] will be surrendered in that case, he has the right to have a lawyer in the foreign State, so that he will have peace of mind, so that he will be safer when he goes to the foreign State, and so that he will know that somebody will take care of him.*

e. Discussion of findings

Research findings suggest that translations for communication between the lawyer and requested person is ensured when it is needed. The lawyers have no problems regarding communication with their clients. Requested persons can receive translation either into their native language or to a language they understand. In Lithuania, requested persons of Lithuanian origin receive the EAW

translated to Lithuanian in written form. Court proceedings are recorded and if there is any doubt about whether the person understands Lithuanian, a language interpreter is called. Requested persons are handed a European Arrest Warrant translated into a language which they understand. This procedure is diligently followed by Lithuanian officers. During the hearing oral interpretation is provided and final documents are translated and provided in written form. In cases when an interpreter might be needed for communication between the lawyer and their client interpretation is guaranteed by the State free of charge. The interpreter can work either face-to-face or remotely. The remote option became more popular during the pandemic and has remained popular since. As reported by some lawyers some Polish and Russian speakers understand Lithuanian well. However, translation will be requested if the person has fears about misunderstanding something or they feel more comfortable communicating in their mother tongue.

Nevertheless, sometimes issues arise with the Russian language as younger officers have a poor knowledge of it. Besides Russian, translation into lesser-known languages, e.g. Arabic or Chinese, as reported by some lawyers, poses challenges. This problem manifests in prolonged procedures as it may take time to find a qualified translator. Translation problems arise in cases outside of EAW and are related to the poor qualifications of some interpreters. As already mentioned, some interviewees see a need for a simplified and understandable version of the EAW which would be handed to the person during the detention process.

### 3. Right to access to a lawyer

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

All the interviewed lawyers stated that as soon as people are detained, they are immediately informed that they have the right to a defence and legal assistance. According to one interviewed lawyer, this information is provided by the police officers and prosecutor. Only one interviewee stated that the right to have a lawyer is explained to requested persons orally. Several other interviewed defence lawyers argued that this is done in a written form. All of the interviewed lawyers stated that the detained person is informed that if they already have a lawyer they must inform officials of this, and if they do not have a lawyer, the State will appoint a lawyer in accordance with the Code of Criminal Procedure. One defence lawyer also mentioned that requested persons are informed about their right to contact relatives and to ask them to find the requested person a private lawyer. Regarding the right to access to a lawyer in the issuing State, most of the interviewed lawyers could not say whether persons are informed about this. One lawyer stated that persons are informed about the right and one lawyer stated that they are not informed about it.

Table 5: Were the requested persons informed of their right to access to a lawyer in the executing Member State?

Lithuania	Requested person 1	Requested person 2	Requested person 3	Requested person 4	Requested person 5	Total
<b>YES</b>	x	x	x	x	x	<b>5</b>
In writing	x	x	x			<b>3</b>
Orally				x		<b>1</b>
In writing and orally					x	<b>1</b>
<b>NO</b>						
<b>Don't know/remember</b>						
<b>Did not answer</b>						

Table 6: Were the requested persons informed by authorities of their right to access to a lawyer in the issuing Member State?

Lithuania	Requested person 1	Requested person 2	Requested person 3	Requested person 4	Requested person 5	Total
<b>YES</b>		x				<b>1</b>
<b>NO</b>			x			<b>1</b>
<b>Don't know/remember</b>	x			x	x	<b>3</b>
<b>Did not answer</b>						



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

Interviewed lawyers mentioned that, based on their work experience, all detained persons usually receive a State-guaranteed defence counsel if they do not hire a private lawyer. Similarly, most of the interviewed lawyers stated that police officers neither provide requested persons with a list of potential lawyers, nor look for lawyers for them. One lawyer mentioned that if a person already has a contract with a private lawyer, the police can help them to get in touch with the lawyer. Once a detained person has a lawyer, they are allowed to call them as many times as needed. Requested persons have a right to talk and consult their advocates. Nevertheless, some of the interviewed lawyers stated that State-guaranteed lawyers can be chosen. According to one of the interviewed lawyers, The Penal Code changed a few years ago and now states that a person can express a specific wish for a State-guaranteed lawyer to be appointed to them, because there are now many State lawyers who also engage in private practice, so if a person indicates that they want one or the other, then the legal aid office appoints the lawyer. However, according to the lawyer, more often than not, such requests are made outside the framework of a European Arrest Warrant when the requested person has already had experience in other cases with a particular lawyer. Another lawyer mentioned a case of one Indian national. Lithuania had to surrender to another country. The requested person did not like the fact that the lawyer was a woman, he preferred to have a man. This was taken into account and the lawyer was changed. According to the interviewed lawyers, defence lawyers are allowed to speak face-to-face with a client and find out their position regarding the detention. The lawyer explains all the procedural steps to the requested person, they both discuss the case and decide on their positions.

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

Interviewed lawyers had differing opinions on whether a detained person is informed about the right to have legal assistance in the warrant issuing State. Most interviewed defence lawyers stated that they had not heard of a requested person being informed about the right. One lawyer, however, stated that no such information is available. The person is not told what kind of lawyer they will have in that country, because, according to the lawyer, nobody in Lithuania would know this yet.

Nevertheless, one lawyer said the requested person with whom he worked, was informed about the right to have a lawyer in the other country. Another interviewed lawyer claimed that requested persons are always asked whether they would like to be immediately assigned a lawyer in the other country or if they already have one. Or if they have been convicted there, there is a lawyer who already has contact with the requested person. Another lawyer said that, although this right is not explained to the requested persons, one of his clients had a lawyer in another country. The lawyer stated that their client had a lawyer in another country, but as he understood it, there was no contact with them. It was just that there was that lawyer in the process, but the person himself was not in contact with that lawyer.

d. Communication between the lawyers in both states

Most of the interviewed lawyers were not able to elaborate on the question as they did not keep in contact with their requested person's lawyers in the other State, if requested persons had such a lawyer. One lawyer said that his client had a lawyer in another country. The lawyer was assigned to the person and later the lawyer assured the court that he had informed his client that a hearing was taking place, although the lawyer's client claimed otherwise. However, according to the interviewed lawyer, there was no communication between the investigating party and the lawyer in the country that issued the warrant. Another interviewed lawyer, when asked whether he himself had ever had any experience of helping detained people to contact lawyers in the issuing country, replied that he had not. He said that if there is a European Arrest Warrant from another country, a lawyer in Lithuania does not need a lawyer in the issuing country because of the European Arrest Warrant. The lawyer would have nothing to discuss with such a lawyer. The lawyer is carrying out the procedure, representing the person in the European Arrest Warrant case. It was also not clear, for the interviewee, how a lawyer in the country issuing the EAW could be assisted by a lawyer in Lithuania. For the lawyer, such a conversation would be irrelevant for the defence strategy, as the requested person returns and the lawyer then coordinates his position with the person. The interviewee stated that he could not, without knowing the person's position, coordinate the person's position with another lawyer in another country.

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

All of the interviewed defence lawyers stated that detained persons are guaranteed State paid legal aid. They only need to pay for the lawyer's service if a private lawyer is hired. Nevertheless, some interviewed lawyers argued that in some cases the courts order the defendant to pay the costs of the lawyer appointed by the State. This is somewhat at odds with the principle of free legal aid. According to the lawyer, this is why sometimes requested persons do not want a State-guaranteed lawyer.

*As for the [persons] represented by our State [in court]... when they are brought here, it seems a bit strange that they are asked to pay [costs] for extradition. But when there is already a trial, for example, as I said just now, [I have] a woman from England [...] and then at the end of the trial, when the case is finished, the police department submits a bill for the extradition, which shows the costs they have incurred. [...] the man did not ask for those two officers to come over there to Britain and pick him up. [...] Sometimes the amounts [are] between three and four thousand euros. [...] Tickets for the officers, meals for the officer [...] and at one point the courts were awarding those extradition costs. I don't think this is very fair. The [...] claim for secondary [legal aid], [is] nonsense: well, the person didn't hire that lawyer, the State itself decided that he needed it. [...] in almost all cases where only State [lawyers] are involved, it is the State's representation that is requested.*

*[...]*

*By the way, some people, when they find out about that, they shout that I don't need that lawyer [...] but by law they have to [give him a lawyer] And the court is in this [predicament]: the person doesn't want to have a lawyer, because he sees that [it could cost] something like €1000 roughly [...] [...] but [ the] court is obliged to give him legal aid.*

Another lawyer mentioned that requested persons may be required to pay extradition costs. One lawyer mentioned that in some cases the requested person may be ordered to pay the costs of the lawyer assigned to him, but not in the case of an EAW.

f. Discussion of findings

Detained persons are informed about their right to have a lawyer immediately after detention. This is done in a written form. Such persons are also informed about their right to contact their relatives and to ask them to find a lawyer, or they can contact a private lawyer, if they already have one. If they do not have a lawyer, they are told that a State lawyer will be guaranteed for them. It is not clear however, whether persons are informed about the right to have a lawyer in the warrant issuing State. Based on the interview data, it can be stated that in some cases requested persons are informed about this right. Some requested persons have been reported to have had lawyers in a warrant issuing State. Yet, it does not seem to be widespread practice.

Legal assistance is guaranteed to detained persons. Requested persons are not given a list of lawyers; however, the police help them to contact a particular lawyer if they already have the contact details. Requested persons' communication with a hired or appointed lawyer is not limited. If a requested person knows a lawyer, who works as a State-guaranteed lawyer, they can ask officers to contact and appoint him that lawyer. This option is convenient for officers as it avoids the time-consuming procedure of looking for a State-guaranteed lawyer. In some cases requested persons can ask for the State-guaranteed lawyer to be replaced by a lawyer of their preferred gender. However, based on the interview data this does not seem to be widespread or common. Sometimes, assistance to requested persons goes beyond legal aid. They receive legal assistance as well as personal attention from the prosecutors.

As suggested by the interviews with defence lawyers, in practice, lawyers in Lithuania do not communicate with lawyers in the warrant issuing State. Some of the lawyers do not see how communication between lawyers in the warrant issuing and executing State could help the case of a detained person. Other problematic issues identified include the fact that although requested persons are guaranteed State-covered legal aid if needed, in some cases the courts order the defendant to pay the costs of the lawyer guaranteed by the State. Such decision somewhat contradicts the principle of free legal aid and may lead to requested persons refusing State-guaranteed legal aid, as reported by some of the interviewed lawyers. Furthermore, sometimes requested persons are ordered to cover execution of the EAW costs.

#### 4. Execution of the EAW

Interviewed defence lawyers mentioned the different behaviours of detained people regarding their acceptance or refusal to be handed over according to an EAW. Some of the lawyers stated that most requested persons agreed to be handed over or would only rarely object to this, while other lawyers claimed the opposite – that most of the requested persons refused to be handed over. Those requested persons who were keen to be surrendered, were willing to go to another country because this would mean shorter procedures and less time spent in detention. One interviewed defence lawyer, said people agree to be transferred if they know that good conditions await them in the other country:

*The process is therefore clear and understandable to them. [...] [when they are detained], they already know whether or not they will agree to be handed over, because a lot depends on the country and a lot depends on whether or not the relatives are here [...], whether or not they have a good life. Because if the relatives here are not doing well, you know, most people, of course, want to serve there. And if the relatives live well, [...] they [requested persons] live well here, because [the relatives] transfer money to them, they can buy everything [...]. So they already come with that opinion, whether they will go or not, they already know. They find out what for and then when they know what for, well, [they ask] what country is looking for [them], because there are several countries and so on... "oh, this country", they say, "well, this one, I'll go.*

Some requested persons who refused surrender could object in the case of a serious alibi, the defence has identified fundamental errors in the issuing of the EAW against the requested person, or, as one lawyer mentioned, they may attempt to do it on health grounds. Other requested persons refused to be handed over because of the social foundations for rehabilitation, there would be more social ties in Lithuania. This was the case with one appeal observed by one of the interviewed defence lawyers, where the courts agreed to let the detained person serve their sentence in Lithuania. Similarly, other requested persons wanted to serve their sentence in Lithuania – according to an agreement between EU countries. One interviewed lawyer claimed that as far as they knew from speaking to other lawyers and to the convicts themselves, they also had to pay the transfer costs. This was another reason why requested persons asked not to be surrendered, and to have their sentence executed in Lithuania i.e. so that there would be no additional costs for the transfer, because they would have to pay the costs incurred themselves, which would be a burden:

*So we made such a request, and it was granted, and he was left in Lithuania. Because basically, when there is such an extradition, as far as [...] I have spoken to other lawyers and to the convicts themselves, they have to pay the costs. And there's a feeling that Malaysia Airlines business class is being flown in. It costs about three thousand to transfer [a person] from Lithuania to the European Union. That was another argument why we asked not to surrender but to take over the execution of the sentence, so that we would not incur additional costs for that transfer, because the person would have to pay them, it would be a burden for them.*

Requested persons have the right to change their mind. But one of the interviewed lawyers had never encountered anyone who exercised that right. One interviewed lawyer, however, said that once a requested person agrees to be transferred, it is not possible to reverse this decision. Regarding the execution of the EAW, interviewed lawyers stated that requested persons are treated with respect and that there are no problems with the implementation of the EAW. Some interviewed lawyers, at the end of the interview, even said that requested persons are treated with even too much respect:

*I can summarise that there is respect. [...] [access to] a lawyer is definitely guaranteed. [...] I*

*worked as a judge back in the day, I know that everything [for the proceedings] is prepared properly and I think that really people don't complain... don't complain, at least as far as I have [experienced], [...] that there is something violated there, that they couldn't... call or [that] something is wrong. Usually there is even an effort to please those people. That seems to be the fashion now. [...]*

*Q: You think it is specifically related to the European Arrest Warrant cases?*

*A: Exactly. [...] As far as I am seeing, they [the officials] somehow have more respect for them. [...] Maybe [there is] such a reluctance that when he goes there and says "they didn't give me this, they didn't tell me that", [that's why] everything is done with precision all the time .*

Another important remark made by one of the interviewed defense lawyers at the end of the interview was that all persons are surrendered under the European Arrest Warrant, and that there is no possibility to prevent a person from being surrendered under the European Arrest Warrant, as most of the time, the European Arrest Warrant is executed. The lawyer regretted this situation and assumed the rigidity of the system enforcing implementation of EAW in Lithuania. Similar regret was expressed at the end of the interview by another lawyer

*The other thing is that the courts should not be so straightforward in applying the conditions for arrest or detention requested in the European arrest warrant. There are all sorts of circumstances, and we need to look at those circumstances, and analyse whether it is really necessary to arrest [the person], or whether he or she can be at liberty with other precautionary measures until the extradition issue is resolved. [...] in my last case in particular [...] the person [...] was arrested in the first instance without much consideration, without any reasoning as to why another precautionary measure could not be taken, even though we had asked for another precaution. The man [...] lives with his family in his own house in Kaunas district and is employed. And there is no presumption that he will run away, hide from the law enforcement authorities. [...] all the more so because this is a process of execution [of a sentence], which is possible, which is possible under European law, which can be carried out in the country where the person is permanently resident.*

The defence lawyer therefore suggested that the Lithuanian courts should take more account of the interests of detained Lithuanian citizens and rely less blindly on the decisions of the issuing State's officials when executing an EAW. The same lawyer brought up one more problematic issue at the end of the interview and this was the excessive length of detention of a person, even if the person agrees to be surrendered to the requesting State

*The other thing is the term for extradition... Well, as far as it is possible, if [...] if it is a person who has already been arrested, who has committed crimes, [...] All the more so that there are people who agree to be surrendered. So why wait almost a month for that circle to pass and for the person to be surrendered. Once the decision has been taken, [...] by the time all the technical work is done again [...] and by the time the foreign State comes to pick him up, the pick-up-transfer mechanism is quite long. [...] and it would be necessary to take decisions at the European level that people are waiting up to two weeks... [...] there are such [problems] and all these seemingly nuances, little things... but they all boil down to a violation of human rights. There doesn't seem to be a major violation, but these little things, in their totality, constitute a serious violation. And man must not suffer.*

According to the lawyer taken together similar violations can add up to bigger problems regarding the

human rights of detained persons.

## **CONCLUSION**

### **Right to information**

The results of the study show that requested persons are provided with information at various stages of their detention on their rights, the content and procedure of the EAW. Police officers and prosecutors provide information in writing and/or orally. All requested persons are given a standard letter listing all the requested person's rights. Delivery of the letter is documented by asking the requested person to sign a document confirming that they have been served with the letter. Prosecutors-General and judges aim to ensure that requested persons understand the information they are given about their rights and detention. Nevertheless, during and after detention, requested persons are also provided with information on the content and procedures of the EAW. Requested persons are also given an explanation of the speciality rule and the consequences of accepting or not accepting the application of the speciality rule. This information is given in writing by prosecutors and judges at the beginning of the detention and orally during the court hearings. The data suggest that requested persons understand the information provided to them. They receive good treatment from officers and do not complain about it. However, some lawyers tend to believe that the information provided on the content of the EAW is too detailed. This in turn may make it difficult for a person under stress during detention to understand the whole case and its process. Therefore, some lawyers consider it necessary to provide the requested person with a simplified version of the EAW. Nevertheless, the lawyers interviewed also stated that the warrant is explained several times to the requested persons in order to make sure that they are well informed about it.

### **Right to interpretation and translation**

The results show that the service of an interpreter, which may be needed for successful communication between the lawyer and the requested person, is ensured when it is needed. Lawyers have no problems in communicating with their clients. When a translator is needed for communication between a lawyer and their client, their services are guaranteed free of charge by the State. Court hearings are recorded and an interpreter is called in immediately if there is any doubt as to whether the person understands Lithuanian. The requested persons are always given a EAW translated into a language they understand. During the court hearing, the requested person is provided with interpretation services, and the final documents are translated and provided to them in writing. The interpreter can work in person or remotely. Remote interpreting became popular during the pandemic, and has continued to be popular since. There are sometimes problems with the Russian language, which is poorly spoken by younger Lithuanian officers. Older generation lawyers can communicate with clients in Russian. In addition to Russian, translation into lesser-known languages, such as Arabic or Chinese, poses difficulties. The lack of translators from these languages creates a secondary problem: it delays the procedures because it takes time to find a qualified translator.

### **Right to access to a lawyer**

Requested persons are informed of their right to a lawyer immediately after detention. They are also informed of their right to contact their relatives and ask them to find a lawyer, or of the possibility of contacting a private lawyer if the requested person has a contract with one. If the person does not have such a lawyer, they will be informed that a public lawyer will be guaranteed for them. However, it is not clear from the survey data whether persons are informed of their right to a lawyer in the issuing State. Based on the interview data, it can be argued that in some cases requested persons are

informed of this right, and that requested persons are provided with lawyers in the issuing State. However, this does not seem to be a widespread practice. Requested persons are guaranteed legal aid, but are not provided with a list of lawyers from which they can choose the one they want. However, the police do help them to contact a specific lawyer, if the contact details are provided by the requested person. There are no restrictions on a requested person's contact with the lawyer they have hired or appointed. Defendants sometimes request to have a State-guaranteed lawyer replaced with a lawyer of their preferred gender. In Lithuania, in practice, lawyers do not communicate with lawyers working in the issuing country. Another problematic aspect of the provision of legal aid is that, although requested persons are guaranteed legal aid on payment of the prescribed fees if necessary, in some cases the courts oblige the accused to pay the costs of a State-guaranteed lawyer. Such a decision is somewhat contrary to the principle of free legal aid and, as the study shows, may encourage requested persons to refuse the State-guaranteed legal aid. In addition, requested persons are sometimes ordered to pay extradition costs.

### **Execution of EAW**

The research findings suggest that acceptance or refusal to be surrendered varies among requested persons. The major reason for agreeing to be surrendered relates to the possibility of avoiding time-consuming procedures of extradition in case of refusal. In cases of agreement, requested persons prefer to spend less time in the executing State. Second, extradition is often agreed upon if there are good imprisonment conditions in the warrant-issuing country. If surrender is refused this is usually because the requested person has a serious alibi, health issues, or the defence has identified fundamental errors in the issuing of the EAW. Additionally, requested persons may be willing to serve their sentence in their home country – something intra-EU State agreements allow – if their social life (family, home) is there. Finally, requested persons refuse surrender because they do not want to pay extradition costs. Requested persons have a right to change their mind regarding whether to accept or refuse extradition. Yet, from the research findings it is unclear how often the right is exercised. In Lithuania officers treat requested persons with respect and no abusive treatment has been documented. Interestingly, some lawyers suggest that when compared to other requested persons, EAW requested persons are treated with exceptional respect. Sometimes the EAW execution process is seen as too rigid and carried out without taking into consideration the requested person's interests. The courts tend to acknowledge the arguments presented by the warrant issuing State's institutions. Some lawyers think that the period of detention is too long and harmful with regard to the detained persons interests.