

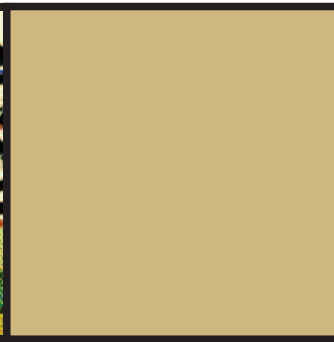


NPIA

National Policing
Improvement Agency

PROFESSIONAL PRACTICE

Briefing Paper



European Arrest Warrants (Part 1)

2009

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European Arrest Warrants (Part 1) 2009

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Contents



Preface	3
Section 1: Receiving the Warrant	5
Section 2: Arrest	11
Section 3: Custody and Court	21
Section 4: Removals	27
Appendix 1: List of all EAW countries	33
Appendix 2: Production Pro Forma	35

Preface

Extradition is the mechanism by which one state requests the return of an individual from another state in order for them to be prosecuted for a criminal offence, or to serve a term of imprisonment following conviction of a criminal offence.

Within the European Union (EU), the European Arrest Warrant (EAW) has replaced the resource intensive system of extradition under bilateral treaties. The EAW provides a more efficient and speedier mechanism to surrender wanted persons.

Previously, the Extradition Unit in the Metropolitan Police Service (MPS) has investigated and served EAWs received by UK SOCA, and processed prisoners. From 1 April 2009 there will be a significant change in the procedure. Police forces will then be required to carry out this role for any person within their force area who is the subject of a European Arrest Warrant. Arrest requests received from countries outside Category 1 countries (see **Appendix 1**) will continue to be executed by the MPS Extradition Team.

This briefing paper details how forces should process EAWs locally. It also explains how the Extradition Act 2003 provides officers with the relevant powers of arrest, search and detention.

The Police and Criminal Evidence Act 1984 (PACE) is not applicable to those detained under the Extradition Act 2003. There are, therefore, some subtle but key differences in procedure which must be adhered to. These include:

- The caution used on arrest;
- Rights in detention;
- Search powers.

The nature of these differences is outlined in the relevant sections of this briefing paper.

Although not strictly classified under the Extradition Act 2003, there are two types of EAWs. The first is an Accusation EAW, whereby the subject of the EAW is accused in the originating country of the commission of the offence specified on the EAW. The EAW is issued in order to facilitate the return of the subject to the originating country, for the purpose of prosecuting them for the offence.

The second type of EAW is a Conviction EAW, whereby the subject of the warrant is unlawfully at large after being convicted of the offence specified on the EAW. This EAW is issued in order to facilitate the return of the subject for the purpose of sentencing them for the offence, or of serving the remainder of an existing sentence of imprisonment.

The two types of EAW are executed differently. These differences will be identified in the appropriate sections of this briefing paper.

Forces may wish to consider how best to ensure that all relevant personnel, particularly those on uniform patrol and in the custody suite, will be informed of these procedures so as to ensure that all EAWs are executed lawfully.

This briefing paper is not to be considered an exhaustive guide to the execution of EAWs in the UK. All users should have an understanding of the issues involved in the execution of EAWs, and be familiar with the Extradition Act 2003 and the Extradition Act 2003 Codes of Practice. Users should also be prepared to seek legal advice where appropriate.

Target Audience

The briefing paper is written for senior officers in force, EAW SPoCs and frontline officers. It outlines how EAWs should be actioned locally and identifies some of the issues that this may present for forces.

Receiving the Warrant



1

This section explains the two types of European Arrest Warrants, how these will be allocated to forces and the actions that forces should take on receipt of such a warrant.

Contents

1.1	Role of SOCA	7
1.2	Role of the EAW SPoC	8
1.3	Initial Actions	8

1.1 Role of SOCA

SOCA is one of the UK Central Authorities for EAWs. All incoming (Part 1) EAWs and outgoing (Part 3) EAWs are sent through the SOCA Multilateral Fugitive Unit. In England and Wales a subject should, where possible, only be arrested when the EAW has been certified by SOCA. This means that the EAW has to meet certain requirements under the Extradition Act 2003 (for information on arrest without a certified EAW, see **2.4 Provisional Arrests**). This briefing paper relates only to subjects who are thought to be in England and Wales and are wanted by EAW partner countries. (For a full list of participating countries see **Appendix 1**.)

When SOCA receives a message from an EAW partner country about a wanted person, the subject's details are put onto the Police National Computer (PNC) and the Home Office Watch List.

The message on the wanted missing page will be in the following format.

SUBJECT OF SIRENE CIRCULATION, ANY INFORMATION PLEASE CONTACT 67SI,
QUOTING THE ABOVE-MENTIONED REFERENCE NUMBER.

DO NOT DISCLOSE TO SUBJECT.

A case file will be set up for a SOCA officer who will:

- Carry out a prescribed number of intelligence checks to locate the subject;
- Liaise with the requesting country to certify the obtained EAW;
- Liaise with the requesting country to obtain identification documents.

If a subject is located without a certified EAW then SOCA, in the majority of cases, will advise the officer to discreetly obtain the address of the subject. The subject can then be arrested at a later date when an EAW has been certified. SOCA must always be contacted if a subject may have been located, because there may be additional information on the file or the offence may be so serious that provisional arrest should be considered.

SOCA may certify the EAW if it meets the criteria set down in the Extradition Act 2003 section 2.

Once the EAW has been certified, the PNC is updated to show the following message on the wanted/missing page.

SUBJECT OF A "(name of country)" EUROPEAN ARREST WARRANT FOR "(offence)".
ISSUED BY "(court name)" on "(issue date)". ARREST AND CONTACT 67SI.

If there is intelligence giving a subject's location in the UK, the EAW will be sent to the relevant force area's EAW SPoC. It is then the responsibility of the force to carry out a risk assessment for the subject, conduct any additional intelligence work and arrest the subject.

SOCA Multilateral can be contacted twenty-four hours a day, seven days a week.
Telephone: 0207 238 8555
Fax: 0207 238 8112
Email: London@soca.x.gsi.gov.uk
London@soca.pnn.police.uk

1.2 Role of the EAW SPoC

The EAW SPoC has four main responsibilities:

- Receive incoming EAWs from SOCA;
- Ensure the EAW is dealt with efficiently, effectively and lawfully;
- Provide advice to frontline officers in their force regarding the execution of EAWs;
- Provide the facility for a twenty-four-hours-a-day, seven-days-a-week response in each force.

1.3 Initial Actions

The EAW itself will be in the issuing country's language, with an English translation and a SOCA certificate.

Every effort is made by SOCA to ensure that the EAW itself is accurate and contains all the necessary information. However, the responsibility for the execution of the EAW, and therefore the liability, ultimately lies with the local force. The EAW SPoC should ensure that basic checks are undertaken on receipt of an EAW to ensure that it contains all the information required under the Extradition Act 2003. Any inconsistencies noticed should be notified to SOCA.

As a minimum, the SPoC should be prepared to check the following:

- That the details contained within the EAW are coherent and consistent.
- Whether the EAW is an Accusation EAW or a Conviction EAW.

- That the conduct described on the EAW matches the offence for which the subject is sought. An Accusation EAW should, therefore, contain detailed information of the offence, including the subject's conduct, the time and place of the alleged offence, and any provision of the law of the Category 1 territory under which the conduct is alleged to constitute an offence. Less detail is required for Conviction EAWs.
- That there is adequate information for identification purposes (eg, photographs or fingerprints).
- That the EAW is signed and dated by the issuing judge or official.

If there is any doubt over the validity of the EAW, this must be raised with SOCA in order to ensure that any subsequent arrests are made lawfully.

Accurate identification of the subject is a primary concern when cases progress to court. Cases commonly fail on presentation to the judge on this basis. It is essential that the SPoC is satisfied that they have sufficient information to ensure that the subject can be identified to the satisfaction of the District Judge.

The types of offences that may lead to the production of an EAW vary considerably, from the theft of a sheep to multiple instances of violence, sexual assaults or homicides. It is important that forces implement some form of assessment of the risk posed to their communities by the subject and react accordingly. This will help determine the priority which will be given to the search for the subject, the resources which may be applied to that search and the risks associated with their deployment. Forces should consider developing their own policies regarding the execution of warrants on high-risk subjects.

In addition to the intelligence package that is received from SOCA, forces will need to check their own intelligence systems as per their standard procedures for the location search for a subject. The EAW, risk assessment and any associated intelligence should be added to the force intelligence system.

If reasonable intelligence checks have been carried out and the subject cannot be confirmed to be in the force area, or indeed in the UK, a message should be sent to SOCA informing them of this and detailing the checks that have been completed and the results.

If reasonable intelligence checks have been carried out and intelligence suggests that the subject is in a location in another force area, a message with corresponding intelligence should be sent to SOCA.

SOCA will contact forces on a regular basis to check progress on high-risk cases, but forces may wish to consider their own policies with respect to the frequency of reviews and who is responsible for conducting them.

Arrest



2

This section outlines the arrest procedures for subjects, including the powers of arrest, caution and search as outlined in the Extradition Act 2003, and the processing of property and identifying information.

Contents

- 2.1 Arresting the Subject** 13
 - 2.1.1 Planning 13
 - 2.1.2 The arrest 14
- 2.2 Search Powers** 15
 - 2.2.1 Conviction EAWs 15
 - 2.2.2 Accusation EAWs 15
 - 2.2.3 Seizing property 15
- 2.3 Domestic Offences** 16
 - 2.3.1 Subjects not in the court or prison system 16
 - 2.3.2 Producing prisoners to court 18
 - 2.3.2 (1) Producing subjects from prison to the City of Westminster Magistrates' Court where identity is not an issue 18
 - 2.3.2 (2) Producing subjects from prison to the City of Westminster Magistrates' Court where identity is an issue 19
- 2.4 Provisional Arrests** 20

2.1 Arresting the Subject

2.1.1 Planning

The arrest of persons identified in an EAW is **not covered by PACE**. **Some of the provisions of the PACE codes are, however, stipulated in the Extradition Act 2003 Codes of Practice, and officers should comply with them.** There are, therefore, some differences in the procedures associated with arrest and custody.

- The Extradition Act 2003 imposes a strict timeframe on the interval between arrest and presentation at court for the initial hearing;
- All extradition cases must be heard by an appropriate judge, all of whom are located at the City of Westminster Magistrates' Court.

Once arrested, the subject **must** be presented to the City of Westminster Magistrates' Court **as soon as practicable** after arrest.

Failure to produce the subject before a judge at the City of Westminster Magistrates' Court as soon as is practicable may result in the judge discharging the case. It is strongly advised that the arrest of any individual subject to an EAW is pre-planned in order to ensure that the EAW is executed with the maximum efficiency.

City of Westminster Magistrates' Court opening hours:
Monday to Friday 09.15 – 16.30
Saturday 10.30 – 12.30

Although it will not be possible in every case, it should be considered best practice to have the following in place prior to the execution of the EAW:

- Pre-arrest risk assessment;
- Details of any domestic investigations to which the subject is linked;
- Full identification package including, where possible, photographs and fingerprints;
- Search plan (see **2.2 Search Powers**).

If the arrest has been made without any prior planning, SOCA and the force EAW SPoC must be contacted immediately and informed of the arrest.

2.1.2 The arrest

When performing the arrest, it is imperative that the appropriate caution is used. This is not an arrest under PACE and so the arresting officer should state the following:

**'You are under arrest under the Extradition Act 2003.
You do not have to say anything. Anything you do say may be given in evidence.'**

It is essential that the arresting officer establishes the identity of the person they have arrested. They must be asked the following:

'What is your name?'

'What is your date of birth?'

The fact that these questions have been asked and their responses should be recorded in the arresting officer's statement.

It is essential that the arresting officer fully informs the person of why they are being arrested. It is not sufficient for the person just to be told that they are wanted on an EAW.

A full copy of the EAW and certificate must be served on the subject as soon as practicable after arrest. When the EAW is served (usually by the arresting officer), it must not be taken back and the service must be recorded in a statement.

Recommended wording would be:

'I handed the (subject) a copy of the European Arrest Warrant. This warrant was in English and (Language) and included the certificate issued by SOCA.'

If the statement does not include this, there is a high probability that the case will be discharged.

2.2 Search Powers

The Extradition Act 2003 provides officers with search powers, but these powers depend on the nature of the EAW.

2.2.1 Conviction EAWs

If the EAW is for a convicted person who is being extradited in order to serve out their sentence, officers may **only** search for material which may assist in confirming the person's identity.

2.2.2 Accusation EAWs

If the EAW is for the arrest of someone who is currently awaiting trial, officers are empowered to undertake a search for evidence in relation to that offence.

When deciding on the merits of conducting a search, officers may wish to consider what the subject is wanted for and when the offence took place. It is likely that a substantial amount of time has passed between the offence and the execution of an EAW. Any search is, therefore, likely to find evidence of offences committed in the UK. This evidence of domestic offences could delay the subject's attendance at the City of Westminster Magistrates' Court because it conflicts with the necessity for them to be produced as soon as practicable. (See **2.3 Domestic Offences**.)

2.2.3 Seizing property

The type of material officers are empowered to search for at the time of arrest should be considered prior to arrest and incorporated into the arrest plan. In the case of Accusation EAWs, this should include any material which may provide evidence of the alleged offence and may be present at the scene, for example, property belonging to the victim, items of clothing or jewellery, computers, mobile phones or material containing financial information.

Regardless of the type of EAW, any items confirming the identity of the subject should be seized. This may include identity cards, driving licence or passport. In all cases every effort must be made to locate the subject's passport. This will assist in identifying the subject to the appropriate judge and, ultimately, with the removal of the subject to the requesting country.

Any documents linked to identity should be bagged separately from all other property.

Any property seized at the time of arrest, particularly that relating to identification, must be noted in the arresting officer's statement.

Establishing the identity of the subject and gathering evidence to support this is paramount. Confirmation of the identity of the person presented to the court is the first thing that will be checked by the Judge. The use of false names is widespread and, given the lengthy procedures involved in presenting the subject to the court in Westminster, it is imperative that every effort is made to secure as much identification evidence as possible.

Code B parts 7 and 8 of the Extradition Act 2003 Codes of Practice set out how seized property should be dealt with. It should not be given to the requesting state until the person is extradited. The Extradition Act 2003 Codes of Practice provide an explanation on how requesting states can view the material.

2.3 Domestic Offences

2.3.1 Subjects not in the court or prison system

The Extradition Act 2003 states the arrested person **must be produced before the City of Westminster Magistrates' Court as soon as practicable after arrest**. The City of Westminster Magistrates' Court in London is the only court permitted to handle extradition matters. If the prisoner is not produced before the City of Westminster Magistrates' Court as soon as practicable, the case will be discharged. The term 'as soon as practicable' is for the District Judge to decide. Precedent dictates that this term will be interpreted strictly. No delay will be accepted while a subject is being investigated for domestic matters (domestic charges will, however, take precedence over extradition proceedings). This is to ensure the UK's compliance with its international treaty obligations.

In some cases the subject of an EAW may be identified as such while under investigation for an offence committed here in the UK. Alternatively, evidence of offences committed in the UK may be discovered during the execution of the EAW. Once the EAW is executed, this will take precedence over any domestic investigation, unless the subject has been charged. As a result, the arresting officer, their senior officer and the EAW SPoC need to consider the timing of the arrest for the EAW in relation to the progression of the domestic investigation.

Factors which may be of importance may include, but are not restricted to:

- The seriousness of the domestic offence compared with the offence that the EAW relates to;
- Whether the subject is to be detained or released, in relation to the domestic offence;
- The risk assessment regarding the risk posed by the subject to the general public.

If an individual prisoner is being investigated for a domestic offence and it becomes known that he or she is wanted on an EAW, it may be preferable to delay the execution of the EAW until the prisoner has been processed for the domestic offence(s).

Where the subject is bailed for the domestic offence by the custody officer, it may be necessary to arrest the subject for the EAW at this stage to ensure that the subject does not abscond.

There are, however, some considerations to make before executing an EAW when a person has been charged with a domestic offence.

When a person first appears at the City of Westminster Magistrates' Court, they will be asked if they voluntarily consent to go back to the extraditing state. If they do consent, they must be surrendered within ten days unless the judge and the requesting state agree a later date (the exception being if the person is a convicted serving prisoner).

The following case study gives such an example, where a requesting state did not agree to a later extradition date, meaning that the UK had to request extradition back for the serious domestic offence.

Voluntary consent to extradition cannot be established until the initial court hearing. Serious consideration should, therefore, be given to the timing of arrests when there are ongoing domestic matters.

Case Study: *Governor of Wandsworth Prison v Kindris & Others* [2007] EWHC 998 (Admin) R V Kinderis

Kinderis was being investigated in the UK for a serious offence. However, Kinderis was arrested on an EAW for offences committed in Lithuania. At court Kinderis voluntarily consented to be extradited back to Lithuania for the offence. An application was made to the Lithuanian authorities for a later extradition date so that the domestic matter could be concluded. This was rejected by the Lithuanian authorities. Extradition, therefore, had to take place within the ten days as statute dictates. Kinderis was extradited for the EAW offence and UK law enforcement had to apply for extradition to get Kinderis back to the UK to continue proceedings for the domestic offence.

If the subject is charged with a domestic offence and will appear at court the following day, the subject may be arrested for the EAW at court if the case is concluded or the subject is bailed by the court.

Subjects who have been remanded in custody, or are about to serve a sentence for the domestic offence, can be arrested for the EAW at a later stage by way of prison production.

The subject may be arrested on an EAW while also charged with a domestic offence. If, as the custody officer for the domestic matter, it is possible to arrange for the domestic matter to be remitted to the City of Westminster Magistrates' Court so that it can also be dealt with on the same day as the EAW, providing the domestic charge is concluded. In this case both the extradition court and domestic court at Westminster Magistrates' Court and the Crown Prosecution Service (CPS) for the extradition matter and the CPS for the domestic offence must be informed. This will allow the subject to be at court as soon as practicable, thereby meeting the demands of the Extradition Act 2003.

2.3.2 Producing prisoners to court

2.3.2 (1) Producing subjects from prison to the City of Westminster Magistrates' Court where identity is not an issue

If the identity of the subject is not an issue, it is often the best practice to produce the suspect directly to the City of Westminster Magistrates' court.

The courts powers are different concerning remand and convicted prisoners. As a result of the case of *R v Kinderis*, it is often best practice not to arrest remand prisoners until they have been sentenced or their domestic case has been discontinued. (Section 52 of the Extradition Act 2003 gives the appropriate judge power to delay the extradition of a convicted or serving subject who has consented to extradition, until suitable undertaking from the requesting territory that the subject will be returned to the UK to serve the remainder of their sentence once the foreign proceedings have concluded.)

When considering whether to produce a prisoner to court or whether to gate arrest on their release from custody, officers should be made aware that it can take up to six months for a temporary transfer order to be set up. The Home Office conduct movements of temporary transfer prisoners.

Prisoners can only be produced to the City of Westminster Magistrates' Court.

The following action must be undertaken when producing a subject to court:

- Before instigating any action, the requesting authority **must** be asked if they are willing to participate in temporary transfer proceedings. This information can be obtained via SOCA. The court requires this information.
- Once this has been established, the production pro forma (see **Appendix 2**) must be completed and forwarded to the appropriate prison.

- It must be established if the prisoner will require an interpreter. The International Office at the City of Westminster Magistrates' Court can provide one.
- It must be established if the prisoner will require the duty solicitor at court. (Extradition prisoners **must** be legally represented, to be able to consent to extradition.)
- SOCA **must** be informed of the intended arrest and production.
- The International Office of the City of Westminster Magistrates' Court **must** be informed of the intended action.
- The Extradition CPS Lawyer **must** be made aware of the arrest and production.
- The court must be told that the prisoner is either a serving or remand prisoner.
- The court must be told the prisoner's earliest release date (ERD).
- The 'cells' at the City of Westminster Magistrates' Court need to be informed of the intended action.

Officers will need to attend the custody area at the City of Westminster Magistrates' Court. The subject's identity needs to be established (as detailed in **2.2.3 Seizing Property**) and a copy of the EAW must be handed to the subject. A statement of arrest confirming that the subject's identity has been established, and a copy of the EAW that was handed to the subject need to be given to the CPS lawyer and the International Office.

2.3.2 (2) Producing subjects from prison to the City of Westminster Magistrates' Court where identity is an issue

If officers believe that a person's identity may be an issue, they may wish to consider obtaining fingerprints from the requesting authority. This can be done via SOCA. Officers should ensure that once obtained the fingerprints are entered onto their fingerprint system.

Officers can obtain a production order from court that puts the prisoner into the custody of the police. The subject can then be arrested, transported to a police station and their fingerprints taken. These can then be compared against those obtained from the requesting state.

If identity is proved, the police will have to take the suspect to the City of Westminster Magistrates' Court (to ensure the subject is there as soon as practicable after arrest). The police must return the suspect back to the prison from which they came.

The prison service will not transfer the prisoner if they are at court on a production order.

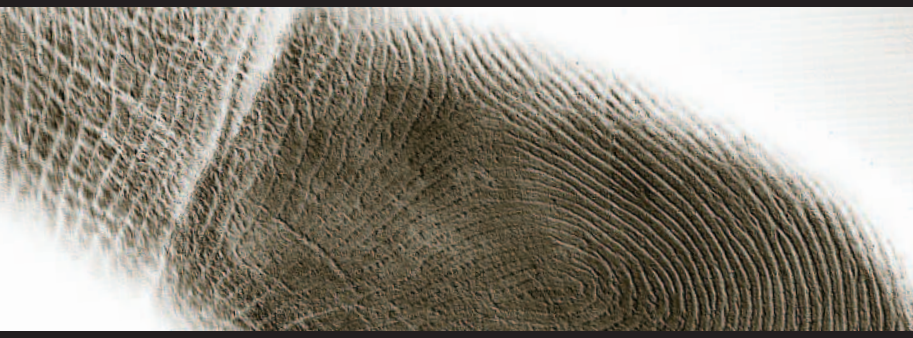
The required action is then exactly the same as where identity is not an issue. All the relevant agencies must be informed and the statement completed.

2.4 Provisional Arrests

The Extradition Act 2003 section 5 allows for provisional arrests to be made in cases of urgency where there are reasonable grounds for believing that an EAW has been or will be issued. It is important to note, however, that there is a requirement to produce the subject, together with a valid, certified EAW, at the City of Westminster Magistrates Court within forty-eight hours of the arrest (including bank holidays and weekends). The prisoner and certified translated EAW must arrive at court together. If the paperwork has not been certified between arrest and the court appearance or if the presentation at court is delayed while the EAW is certified, the judge will discharge the case and ultimately release the prisoner. The Court has no power to remand a case because it is waiting for material to arrive.

In all but the most exceptional of cases, officers should locate and trace the subject but **not** arrest until the EAW has been certified. In the most serious of cases where a provisional arrest is planned, SOCA should be contacted for advice as soon as possible, preferably prior to the execution of the provisional arrest.

Custody and Court



3

This section details actions for custody officers, how subjects of EAWs should be treated in custody, preparations which should be made prior to the first appearance in court, and the court process.

Contents

- 3.1 Immediate Actions for Custody Officers** 23
- 3.2 Custody Conditions** 23
- 3.3 Fingerprints, DNA and Photographs** 23
- 3.4 Preparation for Court** 24
- 3.5 Appearing in Court** 25
- 3.6 Appeals** 26

3.1 Immediate Actions for Custody Officers

- The subject must be given their rights and entitlements as per the legislation as soon as practicable;
- **Hand copy of EAW to prisoner if not already done so;**
- Contact local prisoner transportation informing them that extradition transportation is required and they have to be at court as soon as practicable;
- Notify SOCA;
- Contact the International Office of the City of Westminster Magistrates' Court, telephone: 0207 805 1021. They will provide a lawyer and interpreters;

Annex B of Code C of the Extradition Act 2003 Codes of Practice provides a checklist for custody officers.

(Local prisoner transportation companies are aware of the need to have extradition prisoners produced before the City of Westminster Magistrates' Court as soon as possible and will prioritise these prisoner movements over others.)

There is a need to notify prisoner transport **immediately**.

3.2 Custody Conditions

- The subject must be taken to a twenty-four-hour custody suite;
- They are a non-PACE prisoner and so should be treated as stated in the Extradition Act 2003 Codes of Practice (Code C);
- Checklists and the stages of the extradition process for custody officers are available in the Codes of Practice Annex B and Annex C.

3.3 Fingerprints, DNA and Photographs

The police have power to take fingerprints, DNA and photographs under section 166 Extradition Act 2003 but will need the subject's written consent. Inspector's authority may be obtained to take them without the subject's consent.

There is currently a problem in relation to taking samples for extradition arrests. The PNC does not recognise extradition as an offence category or the foreign location of the alleged offence. The following action is, therefore, required:

- Contact the force PNC bureau, giving details of the extradition offence for which the subject is sought, and the date and location of the offence, in order to obtain an AS number;
- Quote the AS number obtained for the subject's DNA and fingerprint records;
- The PNC bureau will manually input information onto the PNC;
- **Do not scan DNA bags when using NSPIS.**

If this process is not undertaken, the sample and fingerprint records will 'fall off' the PNC after twenty-eight days and no national record will exist of the arrest.

3.4 Preparation for Court

Preparation of case papers:

- The MG1, MG5, MG7 and MG11 must be completed.
- The MG5 must state whether a passport or identity card has been seized, and whether the subject requires a solicitor and/or an interpreter.
- The MG7 needs to be completed to the same standard as it would be for a domestic offence. Previous convictions both from the UK and abroad must be shown.
- The MG11 must detail how identification has been established. Questions and answers in direct speech must be recorded.
If identity is proved by the seizure of documents, this must be shown and the documents (ie, passport) exhibited.

If identification is established by fingerprints, the officer who took the prints needs to record a statement detailing the action taken.

- **Time of arrest must be recorded.**
- The MG1, MG5, MG7, MG11 including a copy of the EAW, certificate and the custody record must be faxed to the CPS, fax number: 0207 630 1761 and the International Office at the City of Westminster Magistrates' Court, fax number: 0207 805 1800.
- The front copy of the custody record must be sent to SOCA.

If no passport is retrieved at the time of the arrest of the subject, the arresting officer must include their own details and address of the force EAW SPoC in the information that is sent to the CPS. The CPS will then be able to send the passport to the arresting officer in preparation for the removal of the subject.

If a passport is retrieved at the time of arrest, the original should remain with the arresting officer or force EAW SPoC. A copy should be made and sent with the case papers to the CPS and SOCA.

The prisoner must be delivered to the City of Westminster Magistrates' Court **as soon as practicable**. The Court will discharge the prisoner if this is not the case. Prisoner transport, such as SERCO and GSL, are specifically contracted to move extradition prisoners. Arrests early in the day may require the prisoner to be at court the same afternoon. The cut off time for the court is 3.30 pm, but this can be extended.

3.5 Appearing in Court

The first court appearance is to determine:

- Consent (does the subject voluntarily consent to going back to the requesting state?);
- ID;
- Bail;
- Date set for extradition hearing. This will be within twenty-one days of arrest.

The judge has to be satisfied that the right person has been arrested in connection with the EAW. Identification is, therefore, key. If identity is not proved, the subject will probably be immediately discharged. If a prosecution request is successful, a short adjournment may be granted. However, the arresting officer will be required to give evidence when the case continues. For those who are discharged, a 'fast-track' warrant can be requested but it is highly unlikely that this would be administered in time for the subject to be re-arrested immediately. The subject would, therefore, be released. If identification is an issue, this should be considered ahead of time.

If the judge is satisfied with the identification, a date is then set for the extradition hearing. Officers may not be required to attend court as the CPS will represent the requesting state. Should the subject consent to extradition, they will need to be removed within ten days of the initial hearing.

At the extradition hearing there are two possible outcomes:

- Extradition ordered – the subject can then appeal;
- Subject discharged.

SOCA will inform the requesting state of the outcome.

3.6 Appeals

The subject will have the right to appeal the extradition and is given seven days to action this. If no appeal is forthcoming, the prisoner must be removed and the Court will advise SOCA of the extradition date. Should there be an appeal, the extradition process will stop and the Court will advise SOCA, which in turn will advise the force, of the timetable and result of the appeal.

Removals



4

This section outlines the actions that officers must take to remove subjects once an extradition has been ordered. There are some conditions that must be adhered to during the removal. There are also differences in the method of removal, depending on whether the subject is in custody or on bail.

Contents

4.1	Conditions for Removal	29
4.2	Prisoners in Custody	29
4.3	Bail Prisoners	30
4.4	Final Actions	31

4.1 Conditions for Removal

The arresting officer or officer in the case (OIC) will be notified by SOCA of the latest date by which the subject **must** be removed from the UK. SOCA will request a proposed date from the force and confirm that it is acceptable with the requesting state. Removals do not take place at the weekend. Once the date of surrender is confirmed, SOCA will provide the force with full details and coordinate the surrender. There are statutory deadlines for this process as stated within the Extradition Act 2003.

The escorting officers from the foreign jurisdiction **must** use an airline registered to their own country. This is to ensure they have jurisdiction during the flight.

Any property removed from the prisoner upon arrest or following a search of their premises must be handed over to the foreign officers at the same time as the subject, and not before. It will be handed to the foreign escorting officers (or person who has the authority to act on behalf of the requesting state) at the port during the removal process. Any property must **not** be provided to the foreign jurisdiction until the extradition process is completed.

4.2 Prisoners in Custody

To arrange a removal the OIC must take the following action:

- Conduct a prisoner location search to establish in which prison the suspect is being held.
- Send a fax to both the discipline department and the reception officers of the relevant prison informing them of the date of removal **and** fax them a copy of the **Extradition Order** which is to be obtained from the City of Westminster Magistrates' Court.
- Complete a copy of the SERCO removal form and send it to SERCO. **Note: the SERCO contract is only to provide transportation to London Heathrow, Crawley Police Station (Gatwick) and Stansted. For all others ports officers will have to arrange their own prisoner transportation.**
- Establish which travel documents are required for the prisoner. The subject must have the correct travel documents. Consult SOCA for information on the requirements of each country.
- Contact the police custody manager at the relevant port and request that a cell is reserved.

- Fax the control room of the relevant port informing them of the flight details and requesting transport from the police cells to the aircraft. **For flights from Gatwick, the prisoner will be taken to Crawley Police Station. Officers will need to collect their own prisoner from Crawley Police Station and take them to the airport. Crawley Police Station is twenty minutes from Gatwick Airport.**
- Contact the security department of the airline conducting the removal (at their UK port office). Provide them with details of the prisoner and escorts (details of the escorting officers will be provided by SOCA) and request that the prisoner pre-boards the aircraft. In liaison with SOCA arrange to meet the escorting officers at this location at the date and time agreed.
- Inform relevant port security of the intended removal.
- On the date arranged, escort the foreign officers from the check-in desk to the departure gate. Carry handcuffs for their use (they have no jurisdiction to use handcuffs in the UK). An airside pass is required. Officers who do not have an airside pass **must** be accompanied by a **police officer** who does hold such a pass. The attendance of a local port police officer should be arranged in advance.
- At the departure gate liaise with the purser or aircraft manager regarding pre-boarding; speak to the captain of the aircraft to gain his or her authority for the prisoner to fly.
- The prisoner's property must be searched and electronically scanned in the same way as that of other passengers boarding the aircraft.
- Move the prisoner from the van to the aircraft and formally hand over the prisoner and property to the foreign escorting officers.

4.3 Bail Prisoners

To arrange extradition for subjects who are on bail, the process for prisoners in custody should be followed, but the following differences apply.

- The prisoner will not require transport to the port or to be detained in the port cells.
- The prisoner must be contacted in good time to allow them to travel to the port on the date arranged. Tell them to bring their travel documents, and warn them that should they fail to attend as directed, they will be arrested and unlikely to gain further bail.

- At the port the subject should surrender themselves back into the custody of the constable. They must be in custody to be handed over to the foreign escorting officers. Escorting officers have **no jurisdiction in the UK** to deal with the prisoner.

4.4 Final Actions

If for any reason the prisoner does not leave, they must be taken to the City of Westminster Magistrates' Court so that authority can be obtained for their further detention. SOCA must be informed that the prisoner has not been extradited. The prison from which the subject came will not accept them back without a new court order.

Officers must wait at the port until the transportation has left the UK.

Inform SOCA and the International Office of the City of Westminster Magistrates' Court once the extradition has been completed.

Appendix 1

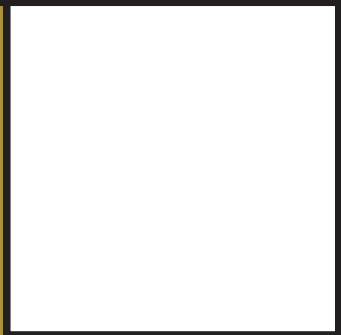
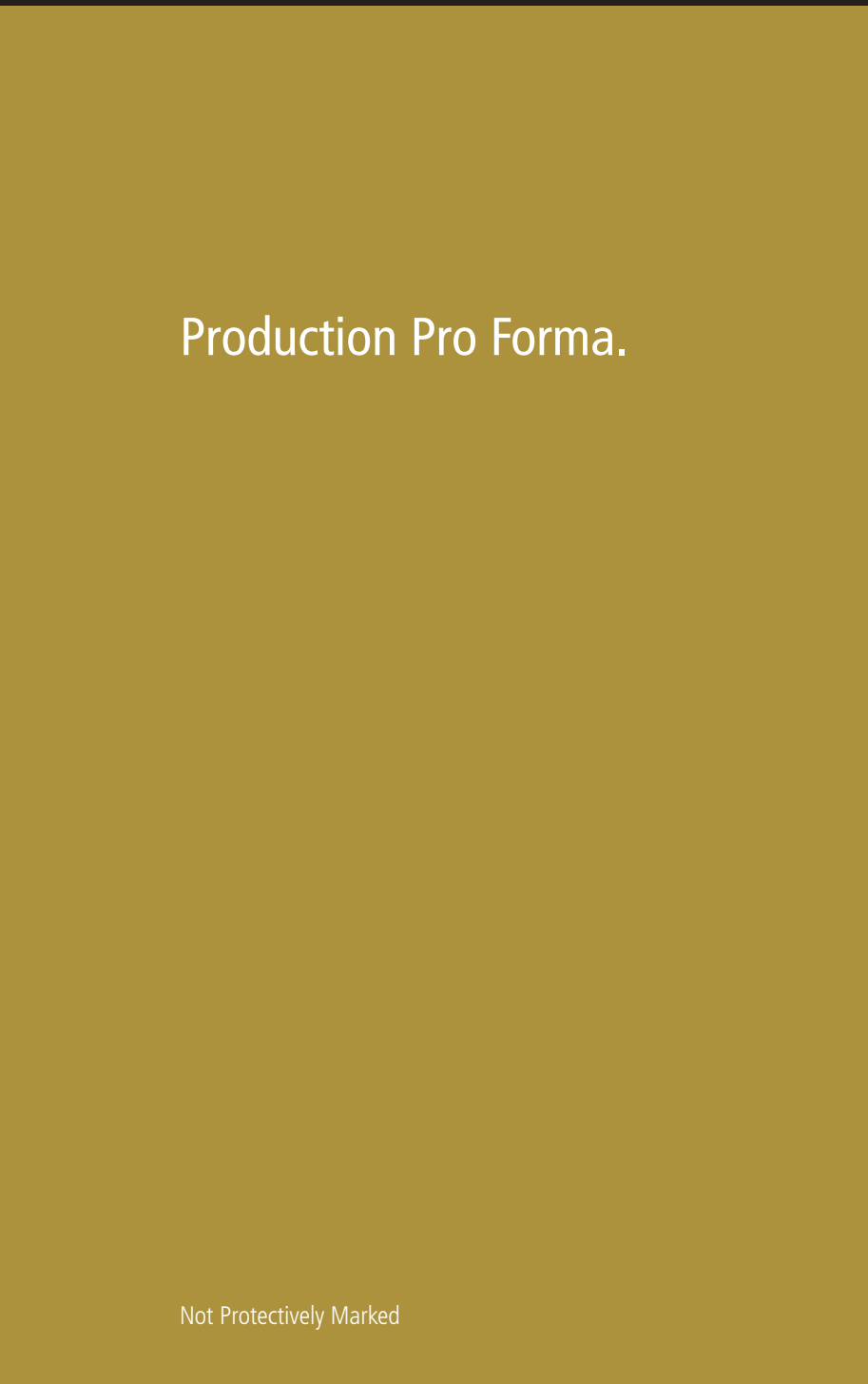


List of all EAW countries.

List of all Category 1 Countries

- Austria
- Belgium
- Bulgaria
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Gibraltar
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxemburg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom

Appendix 2



Production Pro Forma.

City Of Westminster Magistrates’ Court – Code 2660

70 Horseferry Road,
London SW1P 2AX

Tel: 0207 805 1141
Fax: 0207 805 1174

APPLICATION FOR PRODUCTION IN COURT OF A PRISONER

To: The Governor HMP

NAME OF PRISONER:	
A.K.A:	
PRISON NUMBER:	
DATE OF BIRTH:	
COURTHOUSE & TIME THE DEFENDANT IS DUE:	City of Westminster Magistrates’ Court, 10.00am
REASON FOR DEFENDANT TO BE PRODUCED:	To be produced for an extradition hearing.

On behalf of the Regional Justices’ Clerk I confirm that the attendance of **A N OTHER** at court is necessary and that his case cannot be dealt with over the link.

**DATE & TIME OF PRODUCTION
REQUEST:**

**NAME OF PERSON REQUESTING
PRODUCTION:**

**SIGNATURE OF PERSON
REQUESTING PRODUCTION:** _____

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