European Commission - Press release

Commission decides to refer Austria to the Court of Justice of the European Union for incorrectly applying the European arrest warrant

Brussels, 19 November 2026

Today, the European Commission decided to refer **Austria** (INFR(2020)2307) to the Court of Justice of the European Union for failing to comply with the Framework Decision on the European Arrest Warrant (2002/584/JHA). The European arrest warrant (EAW) provides for simplified cross-border judicial surrender procedures: if a judicial authority of any Member State issues a national warrant for the arrest and detention of a suspect or convicted person who has committed a serious crime, it can also issue a European Arrest Warrant that is valid in the entire territory of the EU.

The Commission opened an infringement procedure against Austria in December 2020 for failing to fully and correctly transpose some provisions of the Framework Decision into its national law. The referral to the Court concerns two provisions on optional grounds for refusing to execute an EAW.

Austrian law makes optional grounds for refusal mandatory where the requested person is an Austrian national. This means that judicial authorities in Austria cannot execute EAWs for Austrian nationals. It also extends the grounds for refusal beyond what the Framework Decision allows, affecting the proper application of the EAW.

Following amendments to Austrian law in 2021, the Commission identified remaining concerns and sent an additional letter of formal notice in November 2023. Austria acknowledged some of the shortcomings and committed to further legislative changes. As the concerns remained unresolved, the Commission issued a reasoned opinion in July 2024.

In 2025, Austria adopted a new criminal law, addressing some of the concerns previously identified by the Commission. In particular, Austria allowed the surrender of EU citizens and third-country nationals under an EAW. However, Austrian law, inter alia, continues to oblige its judicial authorities to refuse to execute EAWs for Austrian nationals.

Unlike traditional extradition proceedings, the EAW is based on mutual recognition and mutual trust between Member States. It does not provide for a mandatory ground for refusing an EAW based solely on nationality. Adding such mandatory grounds for refusal undermines the effective functioning of the Framework Decision and the mutual trust on which the EAW is based. The Commission considers that efforts by Austria have, to date, been insufficient and is, therefore, referring Austria to the Court of Justice of the European Union.

Background

The European arrest warrant (EAW) is a simplified cross-border judicial procedure to surrender a requested person for the purpose of conducting a criminal prosecution or executing a custodial sentence or detention order. Operational since 1 January 2004, the EAW has replaced the lengthy extradition procedures that existed between EU Member States. The Framework Decision establishes common rules and procedures for the issuance, recognition, and execution of EAWs, making it easier to combat cross-border crime and bring criminals to justice, while also ensuring respect for fundamental rights and the principles of rule of law.

For more information

EU infringement procedure

Infringement decisions database and infringements map and graphs

November 2026 Infringement cycle

IP/26/2372

Press contacts:

Markus LAMMERT (+32 2 296 75 33)
Antoine LOMBA (+32 2 299 32 33)

General public inquiries: Europe Direct by phone 00 800 67 89 10 11 or by email