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NOTE

From : General Secretariat
To : Delegations
Subject : The Nordic Arrest Warrant

Delegations will find attached information provided by Denmark, Finland, Iceland, Sweden and Norway on the Nordic arrest warrant which was presented at the Mixed Committee meeting of the Article 36 Committee on 8 December 2005.

The Nordic arrest warrant

The Nordic countries – Denmark, Finland, Iceland, Sweden and Norway – have completed negotiations on a Convention establishing a Nordic arrest warrant. The Convention will be signed in Copenhagen on 15 December 2005, and the Nordic countries are committed to have the convention enter into force within the year 2007. The Nordic arrest warrant is based on the principles and the structure of the European arrest warrant (EAW). Both instruments replace previous extradition procedures between the parties and establish a regime of surrender according to which an arrest warrant issued by a judicial authority of another Member State / Contracting Party is to be executed as swiftly as possible, by a judicial authority of the requested State and with a minimum of formalities. The possibility of refusing to execute an arrest warrant is foreseen only where one of the explicitly enumerated mandatory or optional grounds of non-execution is applicable. The Nordic arrest warrant is fully compatible with the obligations of the Nordic EU Member States under the European arrest warrant.

On a few important points the Nordic arrest warrant goes further and provides for an even more efficient regime of surrender than the EAW, namely through a *broader scope, fewer optional grounds for refusal* and *shorter time limits*:

- A Nordic arrest warrant may be issued for any offence punishable by a *custodial sentence or a detention order* or for the execution of such a sentence or order, without any requirements as to the minimum length of the custodial sentence or detention order actually passed, or with which the offence is punishable.
- The Nordic arrest warrant allows fewer grounds for optional non-execution of an arrest warrant. Firstly, it abolishes the principle of *dual criminality* as such, without any positive or negative list, i.e. the executing State cannot refuse surrender merely on the grounds that the offence in question is not punishable under domestic law. Secondly, the executing State cannot refuse surrender on the grounds that criminal prosecution or punishment of the requested person is *statute-barred* according to domestic law. Thirdly, the scope of the ground for refusal contained in Article 4(7)(b) of the EAW (on "*territoriality*") is left out and the one contained in Article 4(7)(a) has been limited to only apply where there is a lack of dual criminality.

- The executing State must observe considerably shorter time limits in deciding to execute the arrest warrant and for the surrender of the requested person, than what is required under the EAW. Firstly, in cases where the requested person consents to his surrender, the final decision on the execution of the arrest warrant should be taken within a period of *3 days* after the person gave his consent – as compared to 10 days under the EAW. Secondly, in other cases, a final decision on the execution of a Nordic arrest warrant should be taken within a period of *30 days* after the arrest of the requested person – as compared to 60 days under the EAW. Thirdly, the person requested is to be surrendered no later than *5 days* after the final decision on the execution of the arrest warrant – as compared to 10 days under the EAW.

The agreement includes some exceptions regarding surrender to and from Iceland, regarding own nationals and political offences.
