

**HELLENIC REPUBLIC**  
**GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS**

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<p><b>Comments and Recommendations regarding the Implementation of Law 3251/2004 titled “European Arrest Warrant, Amendment to Law 2928/2001 Concerning Criminal Organisations and Other Provisions”</b></p>
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Following a recommendation by Prof. P. Stangos (26.11.2006), the Commission’s First Sub-Commission submitted a number of comments/recommendations to the Plenary Session, which were unanimously approved (22.3.2007). The issues on which the Sub-Commission focused in particular were:

- (a) The ban of a national’s extradition;
- (b) The issue of the abolition of the double criminality rule;
- (c) Pending trial as a condition for the non-execution of the European arrest warrant;
- (d) Injustice as a condition for the non-execution of the European arrest warrant;
- (e) Mental inability of the wanted person as a reason for the non-execution of the European arrest warrant;
- (f) Discrimination on the basis of nationality in relation to the non-execution of the European arrest warrant in case of pending trial;
- (g) The cases in which criminal prosecution is stalled as a discretionary reason for refusing to execute the European arrest warrant;
- (h) The relation of the procedures of the European arrest warrant with the Schengen Information System (SIS);
- (i) The provisional transfer of the wanted person; and

(j) The restriction of the rule of specialty.

In conclusion, the Sub-Commission recommended:

(a) The need for Greek public prosecutors and judges to interpret Law 3251/2004 within the limits prescribed by fundamental human rights;

(b) The need to prioritise an interpretation of the abovementioned law in favour of the accused;

(c) That the jurisprudence of the ECtHR be respected in relation to the SIS; and

(d) The need for amending Law 5231/2004 in view of improving the protection of fundamental civil rights of the persons for whom the European arrest warrant is issued. In addition, the Commission congratulated the Supreme Court (Areios Pagos) for its 2005 decision by which the execution of the European arrest warrant for a Greek citizen, in order to stand trial in Germany, may not be carried out in Greece.

22 March 2007