



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 3 November 2011

16319/11

**COPEN 298
EJN 147
EUROJUST 175**

NOTE

From :	Lithuanian delegation
To :	Working Party on Cooperation in Criminal Matters
Subject :	Article 26 of the Framework Decision on the European Arrest Warrant

As provided in Article 26 of the Framework Decision, the issuing Member State shall deduct all periods of detention arising from the execution of the EAW from the total period of detention to be served in the issuing Member State based on information concerning the duration of the custody provided by the executing Member State.

The Lithuanian competent authorities have encountered different opinions expressed by the EAW executing Member States as to whether Article 26 of the Framework Decision shall be applicable to the period of time during which the surrender of a person concerned was postponed pending completion of the domestic sentence.

While most of the Member States do not request to deduct the latter period, Lithuania has faced a counter position based on the fact that during the postponement of the surrender the wanted person was held in custody on the ground of the execution of the EAW alongside the domestic sentence.

Moreover, the issue of deduction was subject to withdrawal of the EAW as the period of time in question was equal to the sentence on which the surrender was sought.

The Lithuanian delegation is, however, of the view that in case the surrender is postponed pursuant to Article 24(1) of the Framework Decision, the successive period of time related to domestic proceedings shall not be considered as the time spent in custody for the purpose of surrender.

Delegations are invited to share their views and practical experience on this issue.
