



C/2024/4084

8.7.2024

Request for a preliminary ruling from the Curtea de Apel Braşov (Romania) lodged on 30 April 2024 – Criminal proceedings against P.P.R.

(Case C-318/24, Breian) ⁽¹⁾

(C/2024/4084)

Language of the case: Romanian

Referring court

Curtea de Apel Braşov

Person who is the subject of the European Arrest Warrant

P.P.R.

Questions referred

1. May Article 15(1) of Framework Decision 2002/584, as amended by Framework Decision 2009/299, ⁽²⁾ be interpreted as meaning that the final judgment regarding the decision of an executing judicial authority to refuse to surrender a requested person has the authority of *res judicata* with regard to another executing judicial authority of another Member State or must it be interpreted as not precluding the [repetition] of a request for surrender on the basis of the same European Arrest Warrant, where the factors which prevented the execution of a previous European Arrest Warrant have been ruled out, or where the decision refusing to execute that European Arrest Warrant was not consistent with EU law, in so far as the execution of a new European Arrest Warrant would not result in an infringement of Article 1(3) of Framework Decision 2002/584, and the repetition of the request for surrender would be proportionate, in accordance with the interpretation of Framework Decision 2002/584 given in the judgment of 31 January 2023, [*Puig Gordi and Others*, C-158/21] (paragraph 141 and the answer to the sixth question referred in that case)?
2. May Article 1(3) of Framework Decision 2002/584, as amended by Framework Decision 2009/299, read in conjunction with the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union, be interpreted as meaning that an executing judicial authority may not refuse to execute a European Arrest Warrant [issued for the purpose of executing a sentence] where, when reviewing the obligation to respect human rights in proceedings for the execution of a European Arrest Warrant, as regards the right to a fair trial, from the point of view of the requirement of a tribunal established by law, provided for in the second paragraph of Article 47 of the Charter, irregularities have been found regarding the taking of an oath by members of the adjudicating panel of the court [which delivered the conviction], without the interference by other public authorities in the process of appointing judges being called into question?
3. May Article 1(3) of Framework Decision 2002/584, as amended by Framework Decision 2009/299, read in conjunction with the second paragraph of Article 47 of [the Charter], be interpreted as meaning that, in a situation in which a person who is the subject of a European Arrest Warrant claims that his or her surrender to the issuing Member State would result in an infringement of his or her right to a fair trial, the existence of a decision of the Commission for the Control of Interpol's Files, which refers directly to that person's situation, cannot per se justify a refusal by the executing judicial authority to execute the European Arrest Warrant in question? By contrast, may such a decision be taken into consideration by that judicial authority, among other factors, in order to assess whether there are systemic or generalised deficiencies in the functioning of the judicial system of that Member State or deficiencies affecting the judicial protection of an objectively identifiable group of persons to which that person belongs?

⁽¹⁾ The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

⁽²⁾ Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ 2002 L 190, p. 1), as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 (OJ 2009 L 81, p. 24).

4. May Framework Decision 2002/584, as amended by Framework Decision 2009/299, be interpreted as not precluding the repetition of a request for surrender of a requested person on the basis of the same European Arrest Warrant [the execution of which was initially refused] by an executing court of one Member State, before another executing court of another Member State, where the issuing judicial authority itself finds that the earlier decision to refuse to execute the European Arrest Warrant was not consistent with EU law, in the light of the existing judicial practice of the Court of Justice or solely due to the fact that a question on the interpretation of EU law applicable in that case has been referred to the Court of Justice for a preliminary ruling?
5. Do the principle of mutual recognition, provided for in Article 1(2) of Framework Decision 2002/584, and the principles of mutual trust and sincere cooperation, provided for in the first subparagraph of Article 4(3) TEU, in conjunction with the need to ensure effective judicial protection of the rights of the persons involved in the proceedings, and also in the light of Articles 15 and 19 of Framework Decision 2002/584, permit the judicial authorities of the issuing Member State (the issuing court [being represented by] a direct representative or, at the request of that court, by other judicial bodies such as a liaison magistrate, the national member of Eurojust or the public prosecutor of the issuing Member State), to participate directly – by making requests, offering evidence and [participating in] legal discussions – in the judicial proceedings for the execution of the European Arrest Warrant conducted by the executing judicial authority, and to use a remedy against the decision regarding the refusal to surrender – under the conditions laid down in the domestic law of the executing Member State for the use of that remedy, in so far as such a remedy is provided for in that law – on the basis of and in accordance with the principle of equivalence?
6. May Article 17(1) TEU, relating to the tasks of the [European] Commission, read in the light of Framework Decision 2002/584, be interpreted as meaning that the tasks of the Commission concerning the promotion of the general interest of the Union through the taking of appropriate initiatives to that end and the tasks relating to ensuring the overseeing of the application of Union law can be performed in relation to a European Arrest Warrant, also at the request of the judicial authority which issued the European Arrest Warrant, where that judicial authority considers that the executing judicial authority's refusal to execute the European Arrest Warrant seriously undermines the principles of mutual trust and sincere cooperation, so that the Commission may take the measures it deems necessary in the light of those tasks and fully independently?
7. Must Article 1(3) of [Framework Decision 2002/584], as amended by [Framework Decision 2009/299], in conjunction with Article 4 of [the Charter], relating to the prohibition of inhuman or degrading treatment, be interpreted as meaning that, when examining detention conditions in the issuing Member State, first, the executing judicial authority cannot refuse to execute the European Arrest Warrant on the basis of information which has not been brought to the attention of the issuing judicial authority and in respect of which the latter has not had the opportunity to provide supplementary information as referred to in Article 15(2) and (3) of [Framework Decision 2002/584] and, second, the executing judicial authority cannot apply a higher standard than that provided for by the Charter and without clarifying precisely the rules to which it refers, in particular as regards the requirements in matters of detention such as the drawing up of a 'precise plan for ... execution of the sentence', the establishment of precise criteria for determining a particular 'regime of execution' and guarantees in relation to non-discrimination on account of a 'particularly unique and delicate position'?
