

By order of 26 March 2021, the Court (Fifth Chamber) ruled:

Article 27 of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, is to be interpreted as not precluding a Member State from adopting, in relation to an applicant who has brought an appeal against a decision to transfer him to another Member State as referred to in Article 26(1) of that regulation, measures preparatory to such a transfer, such as the allocation of a place in a specific reception facility where those accommodated receive support in preparing for their transfer.

**Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 9 March 2021 —
RW v Österreichische Post AG**

(Case C-154/21)

(2021/C 217/32)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: RW

Defendant: Österreichische Post AG

Question referred

Is Article 15(1)(c) of Regulation (EU) 2016/679 ⁽¹⁾ to be interpreted as meaning that the right of access is limited to information concerning categories of recipient where specific recipients have not yet been determined in the case of planned disclosures, but that right must necessarily also cover recipients of those disclosures in cases where data has already been disclosed?

⁽¹⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ 2016 L 119, p. 1).

**Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 11 March 2021 —
Ministerio Fiscal, Abogacía del Estado, Partido político VOX v Lluís Puig Gordi, Carles Puigdemont
Casamajó, Antoni Comín Oliveres, Clara Ponsatí Obiols, Meritxell Serret Aleu, Marta Rovira Vergés,
Anna Gabriel Sabaté**

(Case C-158/21)

(2021/C 217/33)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Prosecuting parties: Ministerio Fiscal, Abogacía del Estado, Partido político VOX

Defendants: Lluís Puig Gordi, Carles Puigdemont Casamajó, Antoni Comín Oliveres, Clara Ponsatí Obiols, Meritxell Serret Aleu, Marta Rovira Vergés, Anna Gabriel Sabaté

Questions referred

1. Does Framework Decision 2002/584/JHA ⁽¹⁾ enable the executing judicial authority to refuse surrender of the person sought via an EAW [European Arrest Warrant], based on grounds for refusal which are laid down in its national law but which are not provided for as such in the Framework Decision?
2. If the answer to the previous question is affirmative, and for the purpose of ensuring the viability of an EAW and relying properly on the source of assistance provided for in Article 15(3) of Framework Decision 2002/584/JHA:

Must the issuing judicial authority investigate and examine the different laws of Member States in order to take into consideration any potential grounds for refusal of an EAW not provided for in Framework Decision 2002/584/JHA?

3. Must the issuing judicial authority investigate and examine the different laws of Member States in order to take into consideration any potential grounds for refusal of an EAW not provided for in Framework Decision 2002/584/JHA?

Must that provision be interpreted as meaning that the executing judicial authority is entitled to call into question the issuing judicial authority's jurisdiction to try the criminal case in point and to refuse surrender on the grounds that that judicial authority is not competent to issue the EAW?

4. As regards whether the executing judicial authority has the right to conduct a review of respect for the fundamental rights of the person sought in the issuing State:

4.1.- Does Framework Decision 2002/584/JHA enable the executing judicial authority to refuse to surrender the person sought on the grounds that it has identified a serious risk of infringement of that person's fundamental rights in the issuing Member State, based on the report of a Working Group submitted to the national executing authority by the person sought?

4.2.- For the purposes of the previous question, does such a report constitute information that is objective, reliable, specific and properly updated in order to justify, in the light of the case-law of the Court of Justice, the refusal to surrender the person sought based on a serious risk of infringement of his fundamental rights?

4.3.- If the answer to the previous question is affirmative, what evidence does EU law require in order for a Member State to be able to conclude that the serious risk of infringement of fundamental rights which has been pleaded by the person sought and which constitutes grounds for refusal to execute the EAW exists in the issuing Member State?

5. Are the answers to the previous questions affected if the person whose surrender is sought has been able to put forward before the courts of the issuing Member State, including at a second level of jurisdiction, arguments concerning the lack of competence of the issuing judicial authority, the arrest warrant issued against him and the guarantee of his fundamental rights?
6. Are the answers to the previous questions affected where the executing judicial authority refuses to execute an EAW on grounds not expressly laid down in Framework Decision 2002/584/JHA, in particular because it has found that the issuing judicial authority lacks competence and that there is a serious risk of infringement of fundamental rights in the issuing State, and it does so without asking the issuing judicial authority for the specific additional information on which that decision depends?
7. If it follows from the answers to the previous questions that, in the circumstances of the case, Framework Decision 2002/584/JHA precludes the surrender of a person based on those grounds for refusal:

Does Framework Decision 2002/584/JHA preclude the referring court from issuing a new EAW against the same person and addressed to the same Member State?

⁽¹⁾ Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States — Statements made by certain Member States on the adoption of the Framework Decision (OJ 2002 L 190, p. 1).