

**Parties to the main proceedings**

*Applicant:* Minister for Justice and Equality

*Defendant:* LM

**Questions referred**

1. Notwithstanding the conclusions of the Court of Justice in *Aranyosi and Căldăraru*, where a national court determines there is cogent evidence that conditions in the issuing Member State are incompatible with the fundamental right to a fair trial because the system of justice itself in the issuing Member State is no longer operating under the rule of law, is it necessary for the executing judicial authority to make any further assessment, specific and precise, as to the exposure of the individual concerned to the risk of unfair trial where his trial will take place within a system no longer operating within the rule of law?
2. If the test to be applied requires a specific assessment of the requested person's real risk of a flagrant denial of justice and where the national court has concluded that there is a systemic breach of the rule of law, is the national court as executing judicial authority obliged to revert to the issuing judicial authority for any further necessary information that could enable the national court discount the existence of the risk to an unfair trial and if so, what guarantees as to fair trial would be required?

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**Request for a preliminary ruling from the Cour de cassation (France) lodged on 29 March 2018 —  
GRDF SA v Eni Gas & Power France SA, Direct énergie, Commission de régulation de l'énergie,  
Procureur général près la Cour d'appel de Paris**

(Case C-236/18)

(2018/C 190/19)

*Language of the case:* French

**Referring court**

Cour de cassation

**Parties to the main proceedings**

*Appellant:* GRDF SA

*Respondents:* Eni Gas & Power France SA, Direct énergie, Commission de régulation de l'énergie, Procureur général près la Cour d'appel de Paris

**Question referred**

Is Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009, <sup>(1)</sup> and in particular Article 41(11) thereof, to be interpreted as requiring that a regulatory authority, when settling a dispute, must have power to issue a decision which applies to the whole of the period to which that dispute relates, regardless of the date on which that dispute arose between the parties, in particular by drawing the consequences of the non-conformity of a contract with the provisions of the directive by means of a decision taking effect as regards the whole of the contractual period?

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<sup>(1)</sup> Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ 2009 L 211, p. 94).

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