



Reports of Cases

Joined Cases C-404/15 and C-659/15 PPU
Pál Aranyosi
and
Robert Căldăraru

(Requests for a preliminary ruling from the Hanseatisches Oberlandesgericht in Bremen)

(Reference for a preliminary ruling — Police and judicial cooperation in criminal matters — Framework Decision 2002/584/JHA — European arrest warrant — Grounds for refusal to execute — Charter of Fundamental Rights of the European Union — Article 4 — Prohibition of inhuman or degrading treatment — Conditions of detention in the issuing Member State)

Summary — Judgment of the Court (Grand Chamber), 5 April 2016

1. *Police and judicial cooperation in criminal matters — Framework Decision on the European arrest warrant and the surrender procedures between Member States — Principle of mutual recognition — Scope*

(Council Framework Decision 2002/584, as amended by Framework Decision 2009/299, Recital 6 and Art. 1(2))

2. *Fundamental rights — Prohibition of torture and inhuman or degrading treatment or punishment — Scope*

(Charter of Fundamental Rights of the European Union, Arts. 4 and 51(1))

3. *Police and judicial cooperation in criminal matters — Framework Decision on the European arrest warrant and the surrender procedures between Member States — Surrender of persons convicted or suspected to the issuing judicial authorities — Obligation on the issuing and executing judicial authorities to respect fundamental rights and legal principles — Scope — Limits*

(Charter of Fundamental Rights of the European Union, Arts 4 and 51(1); Council Framework Decision 2002/584, as amended by Framework Decision 2009/299)

4. *Police and judicial cooperation in criminal matters — Framework Decision on the European arrest warrant and the surrender procedures between Member States — Article 15(2) — Surrender of persons convicted or suspected to the issuing judicial authorities — Consequences*

(Council Framework Decision 2002/584, as amended by Framework Decision 2009/299, Arts 7 and 15(2))

5. *Police and judicial cooperation in criminal matters — Framework Decision on the European arrest warrant and the surrender procedures between Member States — Surrender of persons convicted or suspected to the issuing judicial authorities — Detention of the person concerned — Conditions*

(Charter of Fundamental Rights of the European Union, Arts 6, 48 and 52(1); Council Framework Decision 2002/584, as amended by Framework Decision 2009/299, Arts 12 and 17(5))

6. *Police and judicial cooperation in criminal matters — Framework Decision on the European arrest warrant and the surrender procedures between Member States — Surrender of persons convicted or suspected to the issuing judicial authorities — Obligation to respect fundamental rights and legal principles — Conditions of detention in the issuing Member State — Risk of inhuman or degrading treatment — Verification by the executing judicial authority — Consequences*

(Charter of Fundamental Rights of the European Union, Arts 4 and 51(1); Council Framework Decision 2002/584, as amended by Framework Decision 2009/299, Art. 1(3), 5, 6(1) and 7)

1. See the text of the judgment.

(see paras 77-79, 82)

2. See the text of the judgment.

(see paras 85-87)

3. Compliance with Article 4 of the Charter of Fundamental Rights of the European Union, concerning the prohibition of inhuman or degrading treatment or punishment, is binding, as is stated in Article 51(1) of the Charter, on the Member States and, consequently, on their courts, where they are implementing EU law, which is the case when the issuing judicial authority and the executing judicial authority are applying the provisions of national law adopted to transpose the Framework Decision. It follows that, where the judicial authority of the executing Member State is in possession of evidence of a real risk of inhuman or degrading treatment of individuals detained in the issuing Member State, having regard to the standard of protection of fundamental rights guaranteed by EU law and, in particular, by Article 4 of the Charter, that judicial authority is bound to assess the existence of that risk when it is called upon to decide on the surrender to the authorities of the issuing Member State of the individual sought by a European arrest warrant. The consequence of the execution of such a warrant must not be that that individual suffers inhuman or degrading treatment. To that end, the executing judicial authority must, initially, rely on information that is objective, reliable, specific and properly updated on the detention conditions prevailing in the issuing Member State and that demonstrates that there are deficiencies, which may be systemic or generalised, or which may affect certain groups of people, or which may affect certain places of detention. That information may be obtained from, inter alia, judgments of international courts, such as judgments of the European Court of Human Rights, judgments of courts of the issuing Member State, and also decisions, reports and other documents produced by bodies of the Council of Europe or under the aegis of the United Nations. Nonetheless, a finding that there is a real risk of inhuman or degrading treatment by virtue of general conditions of detention in the issuing Member State cannot lead, in itself, to the refusal to execute a European arrest warrant. Whenever the existence of such a risk is identified, it is then necessary that the executing judicial authority make a further assessment, specific and precise, of whether there are substantial grounds to believe that the individual concerned will be exposed to that risk because of the conditions for his detention envisaged in the issuing Member State. The mere existence of evidence that there are deficiencies, which may be systemic or generalised, or which may affect certain groups of people, or which may affect certain places of detention, with respect to detention conditions in the issuing Member State does not necessarily imply that, in a specific case, the individual concerned will be subject to inhuman or degrading treatment in the event that he is surrendered to the authorities of that Member State. Consequently, in order to ensure respect for

Article 4 of the Charter in the individual circumstances of the person who is the subject of the European arrest warrant, the executing judicial authority, when faced with evidence of the existence of such deficiencies that is objective, reliable, specific and properly updated, is bound to determine whether, in the particular circumstances of the case, there are substantial grounds to believe that, following the surrender of that person to the issuing Member State, he will run a real risk of being subject in that Member State to inhuman or degrading treatment, within the meaning of Article 4.

(see paras 84, 88, 89, 91-94, operative part)

4. The judicial authority of the executing Member State must, pursuant to Article 15(2) of Framework Decision 2002/584 on the European arrest warrant and the surrender procedures between Member States, as amended by Framework Decision 2009/299, request of the judicial authority of the issuing Member State that there be provided as a matter of urgency all necessary supplementary information on the conditions in which it is envisaged that the individual concerned will be detained in that Member State. That request may also relate to the existence, in the issuing Member State, of any national or international procedures and mechanisms for monitoring detention conditions, linked, for example, to visits to prisons, which make it possible to assess the current state of detention conditions in those prisons. In accordance with Article 15(2) of the Framework Decision, the executing judicial authority may fix a time limit for the receipt of the supplementary information requested from the issuing judicial authority. That time limit must be adjusted to the particular case, so as to allow to that authority the time required to collect the information, if necessary by seeking assistance to that end from the central authority or one of the central authorities of the issuing Member State, under Article 7 of the Framework Decision. Under Article 15(2) of the Framework Decision, that time limit must however take into account the need to observe the time limits set in Article 17 of that Framework Decision. The issuing judicial authority is obliged to provide that information to the executing judicial authority. If, in the light of the information provided pursuant to Article 15(2) of the Framework Decision, and of any other information that may be available to the executing judicial authority, that authority finds that there exists, for the individual who is the subject of the European arrest warrant, a real risk of inhuman or degrading treatment, the execution of that warrant must be postponed but it cannot be abandoned. In the event that the information received by the executing judicial authority from the issuing judicial authority is such as to permit it to discount the existence of a real risk that the individual concerned will be subject to inhuman and degrading treatment in the issuing Member State, the executing judicial authority must adopt, within the time limits prescribed by the Framework Decision, its decision on the execution of the European arrest warrant, without prejudice to the opportunity of the individual concerned, after surrender, to have recourse, within the legal system of the issuing Member State, to legal remedies that may enable him to challenge, where appropriate, the lawfulness of the conditions of his detention in a prison of that Member State. If the existence of that risk cannot be discounted within a reasonable time, the executing judicial authority must decide whether the surrender procedure should be brought to an end.

(see paras 95-98, 103, operative part)

5. In accordance with Article 6 of the Charter of Fundamental Rights of the European Union, the executing judicial authority may decide to hold the person concerned in custody only in so far as the procedure for the execution of the European arrest warrant has been carried out in a sufficiently diligent manner and in so far as, consequently, the duration of the detention is not excessive. That authority must give due regard, with respect to individuals who are the subject of a European arrest warrant for the purposes of prosecution, to the principle of the presumption of innocence guaranteed by Article 48 of the Charter. In that regard, the executing judicial authority must respect the requirement of proportionality, laid down in Article 52(1) of the Charter, with respect to the limitation of any right or freedom recognised by the Charter. The issue of a European arrest warrant cannot justify the individual concerned remaining in custody without any limit in time. In any event, if the executing judicial authority concludes that it is required to bring the requested person's detention to an end, it is then required, pursuant to Articles 12 and 17(5) of Framework Decision

2002/584 on the European arrest warrant and the surrender procedures between Member States, as amended by Framework Decision 2009/299, to attach to the provisional release of that person any measures it deems necessary so as to prevent him from absconding and to ensure that the material conditions necessary for his effective surrender remain fulfilled for as long as no final decision on the execution of the European arrest warrant has been taken.

(see paras 100-102)

6. Article 1(3), Article 5 and Article 6(1) of Framework Decision 2002/584 on the European arrest warrant and the surrender procedures between Member States, as amended by Framework Decision 2009/299, must be interpreted as meaning that, where there is objective, reliable, specific and properly updated evidence with respect to detention conditions in the issuing Member State that demonstrates that there are deficiencies, which may be systemic or generalised, or which may affect certain groups of people, or which may affect certain places of detention, the executing judicial authority must determine, specifically and precisely, whether there are substantial grounds to believe that the individual concerned by a European arrest warrant, issued for the purposes of conducting a criminal prosecution or executing a custodial sentence, will be exposed, because of the conditions for his detention in the issuing Member State, to a real risk of inhuman or degrading treatment, within the meaning of Article 4 of the Charter of Fundamental Rights of the European Union, in the event of his surrender to that Member State. To that end, the executing judicial authority must request that supplementary information be provided by the issuing judicial authority, which, after seeking, if necessary, the assistance of the central authority or one of the central authorities of the issuing Member State, under Article 7 of the Framework Decision, must send that information within the time limit specified in the request. The executing judicial authority must postpone its decision on the surrender of the individual concerned until it obtains the supplementary information that allows it to discount the existence of such a risk.

(operative part)