



## Reports of Cases

### Case C-640/15

**Tomas Vilkas**

(Request for a preliminary ruling from the Court of Appeal (Ireland))

(Reference for a preliminary ruling — Police and judicial cooperation in criminal matters — Framework Decision 2002/584/JHA — European arrest warrant — Article 23 — Time limit for surrender of the requested person — Possibility of agreeing on a new surrender date on a number of occasions — Resistance of the requested person to his surrender — *Force majeure*)

Summary — Judgment of the Court (Third Chamber), 25 January 2017

1. *Police cooperation — Judicial cooperation in criminal matters — Framework decision on the European arrest warrant and the surrender procedures between Member States — Time limit for surrender of the requested person — Not possible to surrender the requested person within 10 days of a first new surrender date agreed following that person's resistance to his surrender — Setting of a new surrender date — Lawfulness — Conditions — Repeated resistance not capable of having been foreseen — Consequences of the resistance not capable of having been avoided — Verification by the national court*

*(Council Framework Decision 2002/584, as amended by Framework Decision 2009/299, Arts 15(1) and 23)*

2. *Police cooperation — Judicial cooperation in criminal matters — Framework decision on the European arrest warrant and the surrender procedures between Member States — Time limit for surrender of the requested person — Not possible to surrender the requested person within 10 days of a first new surrender date agreed following a case of force majeure — Consequence — Obligation to release a person still held in custody — No such obligation — Condition — Surrender procedure having been carried out in a sufficiently diligent manner — Duration of the custody not excessive*

*(Charter of Fundamental Rights of the European Union, Art. 6; Council Framework Decision 2002/584, as amended by Framework Decision 2009/299, Art. 23(3) and (5))*

3. *Police cooperation — Judicial cooperation in criminal matters — Framework decision on the European arrest warrant and the surrender procedures between Member States — Time limit for surrender of the requested person — Setting of a new surrender date where surrender of the requested person within the time limit laid down is not possible following a case of force majeure — Concept of force majeure — Strict interpretation — Resistance of the requested person to his surrender — No force majeure except in exceptional circumstances*

*(Council Framework Decision 2002/584, as amended by Framework Decision 2009/299, Art. 23)*

4. *Police cooperation — Judicial cooperation in criminal matters — Framework decision on the European arrest warrant and the surrender procedures between Member States — Implementation by the Member States — Obligation to adopt a decision executing a European arrest warrant — Expiry of the time limits laid down by the framework decision — No effect*

*(Council Framework Decision 2002/584, as amended by Framework Decision 2009/299, Art. 15(1))*

1. Article 23(3) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, must be interpreted as meaning that, in a situation such as that at issue in the main proceedings, the executing and issuing judicial authorities agree on a new surrender date under that provision where the surrender of the requested person within 10 days of a first new surrender date agreed on pursuant to that provision proves impossible on account of the repeated resistance of that person, in so far as, on account of exceptional circumstances, that resistance could not have been foreseen by those authorities and the consequences of the resistance for the surrender could not have been avoided in spite of the exercise of all due care by those authorities, which is for the referring court to ascertain.

Articles 15(1) and 23 of Framework Decision 2002/584, as amended by Framework Decision 2009/299, must be interpreted as meaning that those authorities remain obliged to agree on a new surrender date if the time limits prescribed in Article 23 have expired.

(see para. 74, operative part)

2. See the text of the decision.

(see paras 34-43)

3. See the text of the decision.

(see paras 53-64)

4. See the text of the decision.

(see paras 67-72)