

Request for a preliminary ruling from the Hof van beroep te Brussel (Belgium) lodged on 5 July 2016 — Openbaar Ministerie v Dawid Piotrowski

(Case C-367/16)

(2016/C 335/54)

Language of the case: Dutch

Referring court

Hof van beroep te Brussel

Parties to the main proceedings

Appellant: Openbaar Ministerie

Respondent: Dawid Piotrowski

Questions referred

1. Should Article 3.3 of the Framework Decision ⁽¹⁾ on the European arrest warrant be interpreted as meaning that surrender can be granted only in respect of persons who are regarded as having attained the age of majority under the law of the executing Member State, or does that provision allow the executing Member State also to grant the surrender of minors who, on the basis of national rules, can be held criminally responsible from a certain age (and whether or not there has been compliance with various conditions)?
2. On the hypothesis that the surrender of minors is not prohibited by Article 3.3 of the Framework Decision, should that provision then be interpreted:
 - (a) as meaning that the existence of a (theoretical) possibility of being able to punish minors from a certain age in accordance with national law suffices as a criterion for granting the surrender (in other words, by carrying out an assessment *in abstracto* on the basis of the criterion of the age from which someone can be regarded as criminally responsible, without taking into account any possible further conditions)?; or
 - (b) as meaning that neither the principle of mutual recognition, as referred to in Article 1.2 of the Framework Decision, nor the text of Article 3.3 of the Framework Decision precludes the executing Member State from carrying out an assessment *in concreto* on a case-by-case basis, where it may be required that, so far as concerns the person whose surrender is sought, the same conditions for criminal responsibility must be met as those that apply to the nationals of the executing Member State, having regard to their age at the time of the acts, having regard to the nature of the alleged offence and possibly even having regard to the preceding judicial interventions in the issuing Member State which led to a measure of an educational nature, even if those conditions did not exist in the issuing Member State?
3. If the executing Member State may carry out an assessment *in concreto*, is then, in order to avoid impunity, no distinction to be made between a surrender *for the purposes* of a criminal prosecution and a surrender *for the purposes* of the enforcement of a sentence?

⁽¹⁾ 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).