



## Reports of Cases

### Case C-271/17 PPU Sławomir Andrzej Zdziasek

(Request for a preliminary ruling from the Rechtbank Amsterdam)

(Reference for a preliminary ruling — Urgent preliminary ruling procedure — Police and judicial cooperation in criminal matters — European arrest warrant — Framework Decision 2002/584/JHA — Surrender procedures between Member States — Conditions for execution — Grounds for optional non-execution — Article 4a(1) of Framework Decision 2009/299/JHA — Arrest warrant issued for the purpose of executing a custodial sentence or a detention order — ‘Trial resulting in the decision’ — Legal proceedings amending or combining a sentence passed previously — Decision handing down a cumulative sentence — Decision handed down without the person concerned having appeared in person — Person convicted not having appeared in person at the trial in the context of his initial conviction, either at first instance or on appeal — Person represented by a legal counsellor in the appeal proceedings — Arrest warrant not providing any information in that regard — Consequences for the executing judicial authority)

Summary — Judgment of the Court (Fifth Chamber), 10 August 2017

1. *Judicial cooperation in criminal matters — Framework Decision on the European arrest warrant and the surrender procedures between Member States — Grounds for optional non-execution of the European arrest warrant — Arrest warrant issued for the purpose of implementing a sentence handed down in absentia — ‘Trial resulting in the decision’ — Proceedings involving the imposition of a cumulative sentence, subsequent to the proceedings which have already given rise to the final decision on the guilt of the person concerned — Included — Condition — Authority imposing the overall sentence enjoying a certain discretion*

(Council Framework Decision 2002/584, as amended by Framework Decision 2009/299, Art. 4a(1))

2. *Judicial cooperation in criminal matters — Framework Decision on the European arrest warrant and the surrender procedures between Member States — Grounds for optional non-execution of the European arrest warrant — Arrest warrant issued for the purpose of implementing a sentence handed down in absentia — Warrant lacking information making it possible to establish the existence of exceptions to the ground of optional non-performance — Option to refuse to execute a European Arrest Warrant — Possibility of executing a warrant — Conditions*

(Council Framework Decision 2002/584, as amended by Framework Decision 2009/299, Art. 4a(1))

1. The concept of ‘trial resulting in the decision’, within the meaning of Article 4a(1) 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 referring not only to the proceedings which gave rise to the decision on appeal, where that decision, after a fresh examination of the case on the merits, finally determined the guilt of the person concerned, but also to subsequent proceedings, such as those that led to the judgment handing down the cumulative sentence at issue in

the main proceedings, at the end of which the decision that finally amended the level of the initial sentence was handed down, inasmuch as the authority which adopted the latter decision enjoyed a certain discretion in that regard.

(see para. 96, operative part 1)

2. Framework Decision 2002/584, as amended by Framework Decision 2009/299, must be interpreted as meaning that, where the person concerned did not appear in person in the relevant proceeding or, as the case may be, in the relevant proceedings for the application of Article 4a(1) of that Framework Decision, as amended, and where neither the information contained in the standard form for a European arrest warrant annexed to that Framework Decision nor the information obtained pursuant to Article 15(2) of that Framework Decision, as amended, provide sufficient evidence to establish the existence of one of the situations referred to in Article 4a(1)(a) to (d) of Framework Decision 2002/584, as amended, the executing judicial authority may refuse to execute the European arrest warrant.

However, that Framework Decision, as amended, does not prevent that authority from taking account of all the circumstances characterising the case brought before it in order to ensure that the rights of the defence of the person concerned are respected during the relevant proceeding or proceedings.

(see paras 109, 110, operative part 2)