



Reports of Cases

JUDGMENT OF THE COURT (First Chamber)

13 December 2018*

(Reference for a preliminary ruling — Judicial cooperation in criminal matters — Framework Decision 2002/584/JHA — European arrest warrant — Article 4(6) — Grounds for optional non-execution of the European arrest warrant — Offence underlying the imposition of a custodial sentence in the issuing Member State being punishable in the executing Member State by fine only)

In Case C-514/17,

REQUEST for a preliminary ruling under Article 267 TFEU from the cour d'appel de Liège (Court of Appeal, Liège, Belgium), made by decision of 3 August 2017, received at the Court on 23 August 2017, in the proceedings relating to the execution of a European arrest warrant issued against

Marin-Simion Sut,

THE COURT (First Chamber),

composed of R. Silva de Lapuerta (Rapporteure), Vice-President, acting as President of the First Chamber, J.-C. Bonichot, A. Arabadjiev, C.G. Fernlund and S. Rodin, Judges,

Advocate General: Y. Bot,

Registrar: M. Ferreira, Principal Administrator,

having regard to the written procedure and further to the hearing on 21 June 2018,

after considering the observations submitted on behalf of:

- Mr Sut, by R. Destexhe, avocate,
- the Belgian Government, by C. Van Lul, C. Pochet and J.-C. Halleux, acting as Agents, and by J. Maggio, expert,
- the German Government, by T. Henze and J. Möller, acting as Agents,
- the Spanish Government, by M.J. García-Valdecasas Dorrego, acting as Agent,
- the Netherlands Government, by M. Bulterman and J. Langer, acting as Agents,
- the Austrian Government, by C. Pesendorfer, acting as Agent,
- the Romanian Government, by C.-R. Canțăr, E. Gane, R.-M. Mangu and L. Lițu, acting as Agents,

* Language of the case: French.

– the European Commission, by R. Troosters and S. Grünheid, acting as Agents,
after hearing the Opinion of the Advocate General at the sitting on 6 September 2018,
gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 4(6) of 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), as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 (OJ 2009 L 81, p. 24) ('Framework Decision 2002/584').
- 2 The request has been made in connection with the execution, in Belgium, of the European arrest warrant issued on 26 August 2011 by the Romanian authorities against Mr Marin-Simion Sut.

Legal context

European Union law

Framework Decision 2002/584

- 3 Recitals 5, 6 and 10 of Framework Decision 2002/584 read as follows:
 - '(5) The objective set for the Union to become an area of freedom, security and justice leads to abolishing extradition between Member States and replacing it by a system of surrender between judicial authorities. Further, the introduction of a new simplified system of surrender of sentenced or suspected persons for the purposes of execution or prosecution of criminal sentences makes it possible to remove the complexity and potential for delay inherent in the present extradition procedures. Traditional cooperation relations which have prevailed up till now between Member States should be replaced by a system of free movement of judicial decisions in criminal matters, covering both pre-sentence and final decisions, within an area of freedom, security and justice.
 - (6) The European arrest warrant provided for in this Framework Decision is the first concrete measure in the field of criminal law implementing the principle of mutual recognition which the European Council referred to as the "cornerstone" of judicial cooperation....
- (10) The mechanism of the European arrest warrant is based on a high level of confidence between Member States. ...'
- 4 Article 1(1) and (2) of that framework decision, entitled 'Definition of the European arrest warrant and obligation to execute it', provides:
 - '1. The European arrest warrant is a judicial decision issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order.
 2. Member States shall execute any European arrest warrant on the basis of the principle of mutual recognition and in accordance with the provisions of this Framework Decision.'

5 Article 3 of the framework decision lists three '[g]rounds for mandatory non-execution of the European arrest warrant'.

6 Article 4 of the framework decision, entitled 'Grounds for optional non-execution of the European arrest warrant', specifies those grounds under seven paragraphs. Article 4(6) provides in that regard:

'The executing judicial authority may refuse to execute the European arrest warrant:

...

(6) if the European arrest warrant has been issued for the purposes of execution of a custodial sentence or detention order, where the requested person is staying in, or is a national or a resident of the executing Member State and that State undertakes to execute the sentence or detention order in accordance with its domestic law'.

7 Article 5 of Framework Decision 2002/584, entitled 'Guarantees to be given by the issuing Member State in particular cases', provides:

'The execution of the European arrest warrant by the executing judicial authority may, by the law of the executing Member State, be subject to the following conditions:

...

(3) where a person who is the subject of a European arrest warrant for the purposes of prosecution is a national or resident of the executing Member State, surrender may be subject to the condition that the person, after being heard, is returned to the executing Member State in order to serve there the custodial sentence or detention order passed against him in the issuing Member State.'

Framework Decision 2008/909

8 Recital 12 of Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ 2008 L 327, p. 27), as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 (OJ 2009 L 81, p. 24) ('Framework Decision 2008/909'), states:

'This Framework Decision should also, *mutatis mutandis*, apply to the enforcement of sentences in the cases under Articles 4(6) and 5(3) of Framework Decision [2002/584]. This means, inter alia, that, without prejudice to that Framework Decision, the executing State could verify the existence of grounds for non-recognition and non-enforcement as provided in Article 9 of this Framework Decision ... as a condition for recognising and enforcing the judgment with a view to considering whether to surrender the person or to enforce the sentence in cases pursuant to Article 4(6) of Framework Decision [2002/584].'

9 Under Article 25 of Framework Decision 2008/909, 'without prejudice to Framework Decision [2002/584], provisions of this Framework Decision shall apply, *mutatis mutandis* to the extent they are compatible with provisions under that Framework Decision, to enforcement of sentences in cases where a Member State undertakes to enforce the sentence in cases pursuant to Article 4(6) of that Framework Decision, or where, acting under Article 5(3) of that Framework Decision, it has imposed the condition that the person has to be returned to serve the sentence in the Member State concerned, so as to avoid impunity of the person concerned'.

Belgian law

- 10 Article 6(4) of the loi du 19 décembre 2003 relative au mandat d'arrêt européen (Law of 19 December 2003 on the European arrest warrant), *Moniteur belge* of 2 December 2013 ('the Belgian Law on the European arrest warrant'), which transposes Article 4(6) of Framework Decision 2002/584 into Belgian law, provides that execution may be refused 'if the European arrest warrant has been issued for the purposes of enforcement of a sentence or order, where the requested person is Belgian or is resident in Belgium and the competent Belgian authorities undertake to enforce the sentence or order in accordance with Belgian law'.
- 11 The loi du 15 mai 2012 relative à l'application du principe de reconnaissance mutuelle des peines ou mesures privatives de liberté prononcées dans un État de l'Union européenne (Law of 15 May 2012 on the application of the principle of mutual recognition of custodial sentences and measures involving deprivation of liberty ordered in the European Union), *Moniteur belge* of 8 June 2012 ('the Law of 15 May 2012'), which transposes Framework Decision 2008/909/JHA into Belgian law, provides that a sentence may be adapted if it is incompatible with Belgian law in terms of its duration or nature. It is, however, expressly provided that, if adapted, a custodial sentence or measures involving deprivation of liberty must correspond as closely as possible to the sentence imposed in the issuing State and may not be converted into a fine.
- 12 In that regard, according to the order for reference, the Belgian Constitutional Court held, in a judgment of 27 February 2014, that a criminal fine did not correspond, in terms of its nature, to a custodial sentence or measure involving deprivation of liberty and that conversion of a custodial sentence or measure involving deprivation of liberty into a fine would be contrary to the principle of mutual recognition of judicial decisions.
- 13 It is also clear from the order for reference and from the observations of the Belgian Government that, under Article 17(1) and Article 30 of the loi relative à la police de la circulation routière (Law on the regulation of road traffic), *Moniteur belge* of 27 March 1968, the offences covered by the European arrest warrant at issue in the main proceedings are punishable by fines only.

The dispute in the main proceedings and the questions referred for a preliminary ruling

- 14 In a judgment of 8 June 2011, the Judecătoria Carei (Court of First Instance, Carei, Romania) sentenced Mr Sut, a Romanian national, to a one-year-and-two-month custodial sentence for having driven a vehicle without valid licence plates and without a valid driving licence and for having caused an accident.
- 15 Mr Sut left Romania for France.
- 16 On 26 August 2011, the Romanian authorities issued a European arrest warrant against Mr Sut for him to be surrendered for the purposes of enforcing the judgment of 8 June 2011.
- 17 In February 2015, Mr Sut travelled to Belgium where he has lived since that time and is working there with his spouse on a self-employed basis.
- 18 On 13 July 2017, the Crown Prosecutor at the tribunal de première instance de Liège (Court of First Instance, Liège, Belgium) requested that Mr Sut be surrendered for the purposes of executing the European arrest warrant issued on 26 August 2011. By letter of 13 July 2017, Mr Sut refused to consent to the requested surrender, then, by letter of 14 July 2017, requested that the sentence be served in Belgium.

- 19 By order of 19 July 2017, the tribunal de première instance de Liège (Court of First Instance, Liège) ordered execution of the European arrest warrant.
- 20 Mr Sut brought an appeal against that order before the cour d'appel de Liège (Court of Appeal, Liège, Belgium), under Article 6(4) of the Belgian Law on the European arrest warrant, which transposes Article 4(6) of Framework Decision 2002/584 into Belgian law.
- 21 In that regard, the referring court found, first of all, that Mr Sut is residing in Belgium and has economic and family ties there, so that he may be regarded as a 'requested person [who] is staying in the executing Member State' within the meaning of Article 4(6) of Framework Decision 2002/584. Second, it found that the offences for which the Judecătoria Carei (Court of First Instance, Carei) imposed a custodial sentence are punishable in Belgium by fines only and, lastly, that the Law of 15 May 2012, which transposes Article 8(3) of Framework Decision 2008/909 into Belgian law and provides for the possibility of adapting a sentence if its length or nature is incompatible with Belgian law, expressly prohibits the conversion of a custodial sentence into a fine.
- 22 On the basis of those findings, the Belgian Public Prosecutor considers that the sentence imposed by the Judecătoria Carei (Court of First Instance, Carei) may not be enforced in Belgium in accordance with Belgian law and that, therefore, Mr Sut cannot rely on the optional ground of refusal referred to in Article 6(4) of the Belgian Law on the European arrest warrant.
- 23 However, the referring court is unsure of the relevance of that interpretation, having regard to the case-law of the Court which permits the executing judicial authority to give particular weight to the possibility of increasing the requested person's chances of reintegrating into society when the sentence imposed on him expires (see, inter alia, judgments of 5 September 2012, *Lopes Da Silva Jorge*, C-42/11, EU:C:2012:517, paragraph 32, and of 29 June 2017, *Popławski*, C-579/15, EU:C:2017:503, paragraph 21), while ensuring that the sentence imposed by the issuing State is enforced, and having regard to the recitals of Framework Decision 2008/909 to that effect, in particular to recital 9 thereof.
- 24 In those circumstances, the Cour d'appel de Liège (Court of Appeal, Liège) decided to stay the proceedings and refer the following question to the Court for a preliminary ruling:

'Can Article 4(6) of Framework Decision 2002/584 be interpreted as being inapplicable to acts for which a custodial sentence has been imposed by a court of an issuing Member State, when those same acts are punishable in the territory of the executing Member State only by a fine, which means, in accordance with the domestic law of the executing Member State, that the custodial sentence cannot be executed in the executing Member State, which would be to the detriment of the social rehabilitation of the person sentenced and of his family, social, economic and other ties?'

Consideration of the question referred

- 25 By its question, the referring court asks, in essence, whether Article 4(6) of Framework Decision 2002/584 must be interpreted as meaning that, where, as in the case in the main proceedings, a person who is the subject of a European arrest warrant issued for the purposes of enforcing a custodial sentence resides in the executing Member State and has family, social and working ties in that Member State, the executing judicial authority may, for reasons related to the social rehabilitation of that person, refuse to execute that warrant, despite the fact that the offence which provides the basis for that warrant is, under the law of the executing Member State, punishable by fine only.
- 26 As a preliminary matter, it should be noted that the purpose of Framework Decision 2002/584, as is apparent in particular from Article 1(1) and (2) and recitals 5 and 7 thereof, is to replace the multilateral system of extradition based on the European Convention on Extradition of 13 December 1957 with a system of surrender between judicial authorities of convicted or suspected persons for the

purpose of enforcing judgments or of conducting prosecutions, the system of surrender being based on the principle of mutual recognition (judgment of 25 July 2018, *Minister for Justice and Equality (Deficiencies in the system of justice)*, C-216/18 PPU, EU:C:2018:586, paragraph 39 and the case-law cited).

- 27 Framework Decision 2002/584 thus seeks, by the establishment of a new simplified and more effective system for the surrender of persons convicted or suspected of having infringed criminal law, to facilitate and accelerate judicial cooperation with a view to contributing to the attainment of the objective set for the European Union of becoming an area of freedom, security and justice, and has as its basis the high level of trust which must exist between the Member States (judgment of 25 July 2018, *Minister for Justice and Equality (Deficiencies in the system of justice)*, C-216/18 PPU, EU:C:2018:586, paragraph 40 and the case-law cited).
- 28 In the field governed by Framework Decision 2002/584, the principle of mutual recognition, which, as is apparent in particular from recital 6 of that framework decision, constitutes the ‘cornerstone’ of judicial cooperation in criminal matters, is applied in Article 1(2) thereof which lays down the rule that Member States are required to execute any European arrest warrant on the basis of the principle of mutual recognition and in accordance with the provisions of the framework decision. Executing judicial authorities may therefore, in principle, refuse to execute such a warrant only on the grounds for non-execution exhaustively listed by the framework decision and execution of the warrant may be made subject only to one of the conditions exhaustively laid down in Article 5. Accordingly, while execution of the European arrest warrant constitutes the rule, refusal to execute is intended to be an exception which must be interpreted strictly (judgment of 25 July 2018, *Minister for Justice and Equality (Deficiencies in the system of justice)*, C-216/18 PPU, EU:C:2018:586, paragraph 41 and the case-law cited).
- 29 Framework Decision 2002/584 explicitly states the grounds for mandatory non-execution (Article 3) and optional non-execution (Articles 4 and 4a) of a European arrest warrant, as well as the guarantees to be given by the issuing Member State in particular cases (Article 5) (see judgment of 25 July 2018, *Minister for Justice and Equality (Deficiencies in the system of justice)*, C-216/18 PPU, EU:C:2018:586, paragraph 42 and the case-law cited).
- 30 Thus, although the system established by Framework Decision 2002/584 is based on the principle of mutual recognition, that recognition does not mean that there is an absolute obligation to execute the arrest warrant that has been issued. The system established by that framework decision, as evidenced inter alia by Article 4 thereof, makes it possible for the Member States to allow the competent judicial authorities, in specific situations, to decide that a sentence must be enforced on the territory of the executing Member State (judgment of 5 September 2012, *Lopes Da Silva Jorge*, C-42/11, EU:C:2012:517, paragraph 30 and the case-law cited).
- 31 That applies, in particular, to Article 4(6) of Framework Decision 2002/584, which sets out a ground for optional non-execution of a European arrest warrant according to which the executing judicial authority may refuse to execute such a warrant if the warrant has been issued for the purposes of enforcement of a custodial sentence or detention order, where the requested person is staying in, or is a national or a resident of the executing Member State and that State undertakes to enforce the sentence or detention order in accordance with its domestic law.
- 32 It is thus clear from the wording of that provision that the application of that ground for optional non-execution requires two conditions to be satisfied, namely, first, that the requested person is staying in, or is a national or a resident of the executing Member State, and, second, that that State undertakes to enforce the sentence or detention order in accordance with its domestic law.

- 33 Furthermore, as the Court has previously found, it is clear from the wording of Article 4(6) of Framework Decision 2002/584, in particular from the word ‘may’, that, where a Member State chooses to transpose that provision into domestic law, the executing judicial authority must, nevertheless, have a margin of discretion as to whether or not it is appropriate to refuse to execute the European arrest warrant. In that regard, that authority must take into consideration the objective of the ground for optional non-execution set out in that provision, which, according to the Court’s settled case-law, means enabling the executing judicial authority to give particular weight to the possibility of increasing the requested person’s chances of reintegrating into society when the sentence imposed on him expires (see judgment of 29 June 2017, *Popławski*, C-579/15, EU:C:2017:503, paragraph 21 and the case-law cited).
- 34 As regards, in the first place, the first condition stated in Article 4(6) of Framework Decision 2002/584, the Court has previously stated that a requested person is ‘resident’ in the executing Member State when he has established his actual place of residence there and he is ‘staying’ there when, following a stable period of presence in that State, he has acquired connections with that State which are of a similar degree to those resulting from residence (judgment of 17 July 2008, *Kozłowski*, C-66/08, EU:C:2008:437, paragraph 54).
- 35 As regards, in the second place, the second condition stated in Article 4(6) of Framework Decision 2002/584, as the Court has previously held, it follows from the wording of that provision that any refusal to execute a European arrest warrant presupposes an actual undertaking on the part of the executing Member State to enforce the custodial sentence imposed on the requested person. This indicates that any refusal to execute a European arrest warrant must be preceded by the executing judicial authority’s examination of whether it is actually possible to enforce the custodial sentence in question in accordance with its domestic law. In the event that the executing Member State finds that it is in fact impossible to undertake to enforce the sentence, it falls to the executing judicial authority to execute the European arrest warrant and, therefore, to surrender the requested person to the issuing Member State (judgment of 29 June 2017, *Popławski*, C-579/15, EU:C:2017:503, paragraph 22).
- 36 Where the executing judicial authority finds that both of the abovementioned conditions have been satisfied, it must ascertain whether there is a legitimate interest which would justify the sentence imposed in the issuing Member State being enforced on the territory of the executing Member State (see judgment of 17 July 2008, *Kozłowski*, C-66/08, EU:C:2008:437, paragraph 44). Such an assessment allows that judicial authority to take account of the objective underlying Article 4(6) of Framework Decision 2002/584, as stated in paragraph 33 above.
- 37 It follows from the foregoing considerations that the option conferred on the executing judicial authority to refuse, pursuant to Article 4(6) of Framework Decision 2002/584, to surrender the person requested may be exercised only if that judicial authority, after having ascertained, first, that that person falls within the scope of that provision, within the meaning set out in paragraph 34 above, and, second, that the custodial sentence passed in the issuing Member State against that person can actually be enforced in the executing Member State, considers that there is a legitimate interest which would justify the sentence imposed in the issuing Member State being enforced in the executing Member State.
- 38 In the case in the main proceedings, the referring court found that Mr Sut is residing in Belgium, within the meaning of Article 4(6) of Framework Decision 2002/584. It is therefore appropriate to consider that the first condition for the application of Article 4(6) of Framework Decision 2002/584 is satisfied.
- 39 As regards the second condition, the referring court found that in Belgium the offences to which the European arrest warrant relates are not punishable by custodial sentence but by fines.

- 40 As is clear from the wording of the question referred, the referring court considers that that finding means that it is impossible for the Kingdom of Belgium to undertake to enforce that sentence in accordance with its domestic law within the meaning of Article 4(6) of Framework Decision 2002/584.
- 41 In that regard, in the first place, it should be made clear that Article 4(6) of Framework Decision 2002/584 does not give any indication from which the second condition stated in that provision could be interpreted as automatically precluding a judicial authority of the executing Member State from refusing to execute a European arrest warrant where the law of that Member State provides only for a fine in response to the offence to which the warrant relates. It is clear from the wording of that provision that the provision merely requires that the executing Member State undertake to enforce the custodial sentence set out in the European arrest warrant issued in accordance with its domestic law.
- 42 In the second place, it should be noted that, when deciding on transposing Article 4 of Framework Decision 2002/584 into domestic law, the Member States have, of necessity, a certain margin of discretion in implementing that provision and in particular paragraph 6 thereof (see, to that effect, judgment of 6 October 2009, *Wolzenburg*, C-123/08, EU:C:2009:616, paragraph 61).
- 43 In that context, as the Court has previously held, a national legislature which, by virtue of the options afforded it by Article 4 of the framework decision, chooses to limit the situations in which the national executing judicial authority may refuse to surrender a requested person merely reinforces the system of surrender introduced by that framework decision to the advantage of an area of freedom, security and justice (judgment of 6 October 2009, *Wolzenburg*, C-123/08, EU:C:2009:616, paragraph 58).
- 44 Indeed, by limiting the situations in which the executing judicial authority may refuse to execute a European arrest warrant, such legislation only facilitates the surrender of requested persons, in accordance with the principle of mutual recognition set out in Article 1(2) of Framework Decision 2002/584, which constitutes the essential rule introduced by that decision (judgment of 6 October 2009, *Wolzenburg*, C-123/08, EU:C:2009:616, paragraph 59).
- 45 It is therefore open to the national legislature of a Member State to implement the ground for optional non-execution set out in Article 4(6) of Framework Decision 2002/584 by providing that, if the offence to which the European arrest warrant relates is punishable by fine only in that Member State, the Member State cannot, pursuant to that article, undertake to enforce the custodial sentence.
- 46 As the Court has previously held, although the ground for optional non-execution set out in Article 4(6) of the Framework Decision 2002/584 has in particular the objective of enabling the executing judicial authority to give particular weight to the possibility of increasing the requested person's chances of reintegrating into society when the sentence imposed on him expires, such an objective, while important, cannot prevent the Member States, when implementing that framework decision, from limiting, in a manner consistent with the essential rule stated in Article 1(2) thereof, the situations in which it is possible to refuse to surrender a person who falls within the scope of Article 4(6) thereof (see judgment of 6 October 2009, *Wolzenburg*, C-123/08, EU:C:2009:616, paragraph 62 and the case-law cited).
- 47 In the third place, although, in adopting Article 4(6) of Framework Decision 2002/584, the EU legislature wished to allow the Member States, for the purposes of facilitating the social rehabilitation of the person requested, to refuse to execute the European arrest warrant, it was nevertheless careful to set out, in that provision, the conditions for the application of that ground of refusal, including, inter alia, the executing Member State undertaking to order that the custodial sentence imposed on the person requested actually be enforced, in order to ensure that the custodial sentence imposed is enforced and thereby to avoid any risk of that person going unpunished.

- 48 Lastly, it should be noted, as did the Advocate General in points 82 and 83 of his Opinion, that no provision of Framework Decision 2008/909 can affect the scope of the ground for optional non-execution stated in Article 4(6) of Framework Decision 2002/584, or the way in which it is applied. Although, in accordance with Article 25 of Framework Decision 2008/909, the provisions of Framework Decision 2008/909 are to apply, *mutatis mutandis*, to the enforcement of sentences in cases where a Member State undertakes to enforce the sentence pursuant to Article 4(6) of Framework Decision 2002/584, the EU legislature expressly provided that the provisions of the former framework decision apply only to the extent they are compatible with the provisions of the latter.
- 49 In those circumstances, it is for the executing judicial authority, with exclusive jurisdiction to interpret its national law, to satisfy itself, in accordance with paragraph 36 above, in conducting the assessment required for the purposes of refusing to execute a European arrest warrant under Article 4(6) of Framework Decision 2002/584, despite the fact that the offence to which the European arrest warrant relates is punishable under national law by a fine only, that that law nevertheless allows the custodial sentence imposed in the issuing Member State on the person subject to the European arrest warrant actually to be enforced.
- 50 In the light of the foregoing considerations, the answer to the question referred is that Article 4(6) of Framework Decision 2002/584 must be interpreted as meaning that, where, as in the case in the main proceedings, a person who is the subject of a European arrest warrant issued for the purposes of enforcing a custodial sentence resides in the executing Member State and has family, social and working ties in that Member State, the executing judicial authority may, for reasons related to the social rehabilitation of that person, refuse to execute that warrant, despite the fact that the offence which provides the basis for that warrant is, under that national law of the executing Member State, punishable by fine only, provided that, in accordance with its national law, that fact does not prevent the custodial sentence imposed on the person requested from actually being enforced in that Member State, which is for the referring court to ascertain.

Costs

- 51 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (First Chamber) hereby rules:

Article 4(6) 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, where, as in the case in the main proceedings, a person who is the subject of a European arrest warrant issued for the purposes of enforcing a custodial sentence resides in the executing Member State and has family, social and working ties in that Member State, the executing judicial authority may, for reasons related to the social rehabilitation of that person, refuse to execute that warrant, despite the fact that the offence which provides the basis for that warrant is, under that national law of the executing Member State, punishable by fine only, provided that, in accordance with its national law, that fact does not prevent the custodial sentence imposed on the person requested from actually being enforced in that Member State, which is for the referring court to ascertain.

[Signatures]