

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Grand Chamber) of 18 April 2023 (request for a preliminary ruling from the Corte costituzionale — Italy) — Execution of a European arrest warrant issued against E.D.L.

(Case C-699/21, ⁽¹⁾ E.D.L. (Ground for refusal based on illness))

(Reference for a preliminary ruling — Judicial cooperation in criminal matters — European arrest warrant — Framework Decision 2002/584/JHA — Article 1(3) — Article 23(4) — Surrender procedures between Member States — Grounds for non-execution — Article 4(3) TEU — Duty of sincere cooperation — Postponement of the execution of the European arrest warrant — Article 4 of the Charter of Fundamental Rights of the European Union — Prohibition of inhuman or degrading treatment — Serious, chronic and potentially irreversible illness — Risk of serious harm to health affecting the person concerned by the European arrest warrant)

(2023/C 189/02)

Language of the case: Italian

Referring court

Corte costituzionale

Parties to the main proceedings

Applicant: E.D.L.

Intervener: Presidente del Consiglio dei Ministri

Operative part of the judgment

Articles 1(3) and 23(4) 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, read in the light of Article 4 of the Charter of Fundamental Rights of the European Union,

must be interpreted as meaning that:

- where there are substantial grounds to believe that the surrender of a requested person in execution of a European arrest warrant manifestly risks endangering his or her health, the executing judicial authority may, exceptionally, postpone that surrender temporarily;
- where the executing judicial authority called upon to decide on the surrender of a requested person who is seriously ill in execution of a European arrest warrant concludes that there are substantial and established grounds for believing that that surrender would expose that person to a real risk of a significant reduction in his or her life expectancy or of a rapid, significant and irreversible deterioration in his or her state of health, it must postpone that surrender and ask the issuing judicial authority to provide all information relating to the conditions under which it intends to prosecute or detain that person and to the possibility of adapting those conditions to his or her state of health in order to prevent such a risk from materialising;

- if, in the light of the information provided by the issuing judicial authority and all the other information available to the executing judicial authority, it appears that that risk cannot be ruled out within a reasonable period of time, the executing judicial authority must refuse to execute the European arrest warrant. On the other hand, if that risk can be ruled out within such a period of time, a new surrender date must be agreed with the issuing judicial authority.

(¹) OJ C 73, 14.2.2022.

Judgment of the Court (Third Chamber) of 18 April 2023 (request for a preliminary ruling from the Tribunal de première instance francophone de Bruxelles — Belgium) — X, Y, A, legally represented by X and Y, B, legally represented by X and Y v État belge

(Case C-1/23 PPU, (¹) Afrin (²))

(Reference for a preliminary ruling — Urgent preliminary ruling procedure — Border controls, asylum and immigration — Immigration policy — Directive 2003/86/EC — Right to family reunification — Article 5(1) — Submission of an application for entry and residence for the purposes of exercising the right to family reunification — Legislation of a Member State requiring the sponsor's family members to submit the application in person to the competent diplomatic post of that Member State — Impossibility or excessive difficulty to reach that post — Charter of Fundamental Rights of the European Union — Articles 7 and 24)

(2023/C 189/03)

Language of the case: French

Referring court

Tribunal de première instance francophone de Bruxelles

Parties to the main proceedings

Applicants: X, Y, A, legally represented by X and Y, B, legally represented by X and Y

Defendant: État belge

Operative part of the judgment

Article 5(1) of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, read in conjunction with Article 7 and Article 24(2) and (3) of the Charter of Fundamental Rights of the European Union,

must be interpreted as meaning that it precludes national legislation which requires, for the purposes of submitting an application for entry and residence with a view to family reunification, that the sponsor's family members, in particular those of a recognised refugee, appear in person at the diplomatic or consular post of a Member State competent in respect of the place of their temporary or permanent residence abroad, including in a situation where it is impossible or excessively difficult for them to travel to that post, without prejudice to the possibility for that Member State to require that those members appear in person at a later stage of the application procedure for family reunification.

(¹) OJ C 104, 20.3.2023.

(²) The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.