

In summary, Naturgy submits that it is impossible to conclude that the statement of reasons for the initiation decision is lawful when it neither refers to the comparability analysis required by the case-law to justify the selective nature of aid, nor includes, even summarily, a statement, albeit preliminary, of the reasons why, by virtue of that comparability analysis, the measure at issue is selective. The General Court cannot lawfully rely on the provisional nature of the initiation decision in order to apply an incorrect standard of reasoning. In particular, in view of the fact that the initiation decision concerns a measure which is in the process of being implemented and which therefore has significant legal effects in relation to its beneficiaries, the General Court should have required the Commission to state reasons in accordance with the standards laid down by the case-law on selectivity, even if those reasons were brief and provisional.

2. Second ground of appeal alleging an error in law in the review of the application of Article 107(1) TFEU in relation to the selective nature of the measure at issue.

Naturgy submits that the conclusion of the General Court's examination of the characterisation of the measure at issue as selective carried out by the Commission is vitiated by errors of law. Naturgy submits that the General Court not only erred in law by considering that the legal criteria for reviewing the selective nature of a measure would be different depending on whether the measure at issue was analysed before or after the initiation of the formal investigation procedure, but also erred in law by reversing the burden of proof and failing to find that the Commission erred by concluding, on the basis of the reasoning of the initiation decision, that the measure at issue is selective and/or by failing to establish the selective nature of the measure in accordance with the law.

⁽¹⁾ OJ 2018 C 80, p. 20.

Request for a preliminary ruling from the Corte costituzionale (Italy) lodged on 22 November 2021 — E.D.L.

(Case C-699/21)

(2022/C 73/18)

Language of the case: Italian

Referring court

Corte costituzionale

Party to the main proceedings

E.D.L.

Question referred

Must Article 1(3) of Council Framework Decision 2002/584/JHA on the European arrest warrant, ⁽¹⁾ examined in the light of Articles 3, 4 and 35 of the Charter of Fundamental Rights of the European Union, be interpreted as meaning that, where it considers that the surrender of a person suffering from a serious chronic and potentially irreversible disease may expose that person to the risk of suffering serious harm to his or her health, the executing judicial authority must request that the issuing judicial authority provide information enabling the existence of such a risk to be ruled out, and must refuse to surrender the person in question if it does not obtain assurances to that effect within a reasonable period of time?

⁽¹⁾ Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ 2002 L 190, p. 1).

Request for a preliminary ruling from the Corte costituzionale (Italy) lodged on 22 November 2021 — O.G.

(Case C-700/21)

(2022/C 73/19)

Language of the case: Italian

Referring court

Corte costituzionale

Party to the main proceedings

O.G.

Questions referred

- (a) Does 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,⁽¹⁾ interpreted in the light of Article 1(3) of that decision and Article 7 of the Charter of Fundamental Rights of the European Union, preclude legislation, such as the Italian legislation, that — in the context of a European arrest warrant procedure for the purpose of executing a custodial sentence or detention order — absolutely and automatically precludes the executing judicial authorities from refusing to surrender third-country nationals staying or residing in Italian territory, irrespective of the links those individuals have with that territory?
- (b) If the answer to the first question is in the affirmative, what criteria and assumptions are used to establish that such links are to be regarded as so significant as to require the executing judicial authority to refuse surrender?

⁽¹⁾ OJ 2002 L 190, p. 1.

**Request for a preliminary ruling from the Cour de cassation du Grand-Duché de Luxembourg
(Luxembourg) lodged on 1 December 2021 — GV v Caisse nationale d'assurance pension**

(Case C-731/21)

(2022/C 73/20)

Language of the case: French

Referring court

Cour de cassation du Grand-Duché de Luxembourg

Parties to the main proceedings

Appellant in cassation: GV

Respondent in cassation: Caisse nationale d'assurance pension

Question referred

Does European Union law, in particular Articles 18, 45 and 48 of the Treaty on the Functioning of the European Union and Article 7(2) of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union,⁽¹⁾ preclude provisions of the law of a Member State, such as Article 195 of the Luxembourg Social Security Code and Articles 3, 4 and 4-1 of the amended Law of 9 July 2004 on the legal effects of certain partnerships, which make the grant, to the surviving partner of a partnership properly entered into and registered in the Member State of origin, of a survivor's pension, due as a result of the exercise by the deceased partner of a professional activity in the host Member State, subject to the condition that the partnership was recorded in a register kept by that State for the purposes of verifying compliance with the substantive conditions required by the law of that Member State in order to recognise a partnership and ensure its effectiveness vis-à-vis third parties, whereas the grant of a survivor's pension to the surviving partner of a partnership entered into in the host Member State is subject to the sole condition that the partnership has been properly entered into and registered there?

⁽¹⁾ OJ 2011 L 141, p. 1.