



C/2024/439

3.1.2024

Judgment of the Court (Fourth Chamber) of 9 November 2023 (request for a preliminary ruling from the Landgericht Aachen — Germany) — Staatsanwaltschaft Aachen

(Case C-819/21, ⁽¹⁾ Staatsanwaltschaft Aachen)

(Reference for a preliminary ruling — Judicial cooperation in criminal matters — Recognition of judgments imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in another Member State — Framework Decision 2008/909/JHA — Article 3(4) and Article 8 — Refusal to enforce — Second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union — Fundamental right to a fair trial before an independent and impartial tribunal previously established by law — Systemic or generalised deficiencies in the issuing Member State — Two-step examination — Revocation of the suspension attached to a custodial sentence imposed by a Member State — Enforcement of that sentence by another Member State)

(C/2024/439)

Language of the case: German

Referring court

Landgericht Aachen

Parties to the main proceedings

Applicant: Staatsanwaltschaft Aachen

Other party: M.D.

Operative part of the judgment

Article 3(4) and Article 8 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, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009,

must be interpreted as meaning that the competent authority of the executing Member State may refuse to recognise and enforce a judgment imposing a criminal sentence delivered by a court of another Member State where it has evidence of systemic or generalised deficiencies in that Member State regarding the right to a fair trial, in particular so far as concerns the independence of the courts, and where there are substantial grounds for believing that those deficiencies may have had a tangible influence on the criminal proceedings brought against the person concerned. It is for the competent authority of the executing Member State to assess the situation existing in the issuing Member State up until the date of the criminal conviction in respect of which recognition and enforcement are requested and, if necessary, up until the date of the new conviction which resulted in the revocation of the suspension initially attached to the sentence in respect of which enforcement is requested.

⁽¹⁾ OJ C 198, 16.5.2022.