



## Reports of Cases

### JUDGMENT OF THE COURT (Second Chamber)

1 June 2016\*

(Reference for a preliminary ruling — Police and judicial cooperation in criminal matters — Framework Decision 2002/584/JHA — European arrest warrant — Article 8(1)(c) — Obligation to include in the European arrest warrant information concerning the existence of an ‘arrest warrant’ — No national arrest warrant issued prior to and separately from the European arrest warrant — Effect)

In Case C-241/15,

REQUEST for a preliminary ruling under Article 267 TFEU from the Curtea de Apel Cluj (Appeal Court, Cluj, Romania), made by decision of 22 May 2015, received at the Court on 25 May 2015, in proceedings relating to the execution of a European arrest warrant issued against

**Niculaie Aurel Bob-Dogi,**

THE COURT (Second Chamber),

composed of M. Ilešič, President of the Chamber, C. Toader, A. Rosas, A. Prechal (Rapporteur) and E. Jarašiūnas, Judges,

Advocate General: Y. Bot,

Registrar: L. Carrasco Marco, Administrator,

having regard to the written procedure and further to the hearing on 20 January 2016,

after considering the observations submitted on behalf of:

- the Romanian Government, by R. Radu, A. Buzoianu and R. Mangu, acting as Agents,
- the Hungarian Government, by M.Z. Fehér, G. Koós and M.M. Tátrai, acting as Agents,
- the Austrian Government, by G. Eberhard, acting as Agent,
- the European Commission, by W. Bogensberger and I. Rogalski, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 2 March 2016,

gives the following

\* Language of the case: Romanian.

## Judgment

- 1 This reference for a preliminary ruling concerns the interpretation of Article 8(1)(c) 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; corrigendum OJ 2006 L 279, p. 30), as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 (OJ 2009 L 81, p. 24) ('the Framework Decision').
- 2 The reference has been made in connection with the execution in Romania of a European arrest warrant issued on 23 March 2015 by the Mátészalkai járásbíróság (District Court, Mátészalka, Hungary) against Mr Niculaie Aurel Bob-Dogi.

### Legal context

#### *EU law*

- 3 Recitals 5 to 8 and 10 of the Framework Decision are worded 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.
  - (7) Since the aim of replacing the system of multilateral extradition built upon the European Convention on Extradition of 13 December 1957 cannot be sufficiently achieved by the Member States acting unilaterally and can therefore, by reason of its scale and effects, be better achieved at Union level, the Council may adopt measures in accordance with the principle of subsidiarity as referred to in Article 2 [EU] and Article 5 [EC]. In accordance with the principle of proportionality, as set out in the latter Article, this Framework Decision does not go beyond what is necessary in order to achieve that objective.
  - (8) Decisions on the execution of the European arrest warrant must be subject to sufficient controls, which means that a judicial authority of the Member State where the requested person has been arrested will have to take the decision on his or her surrender.
- ...
- (10) The mechanism of the European arrest warrant is based on a high level of confidence between Member States. ...'

4 Article 1 of the Framework Decision, entitled ‘Definition of the European arrest warrant and obligation to execute it’, provides as follows:

‘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.

3. This Framework Decision shall not have the effect of amending the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 [EU].’

5 Articles 3, 4 and 4a of the Framework Decision set out the grounds for mandatory and optional non-execution of the European arrest warrant.

6 Article 8 of the Framework Decision, headed ‘Content and form of the European arrest warrant’, states in paragraph 1 thereof as follows:

‘The European arrest warrant shall contain the following information set out in accordance with the form contained in the Annex:

...

(c) evidence of an enforceable judgment, an arrest warrant or any other enforceable judicial decision having the same effect, coming within the scope of Articles 1 and 2;

...’

7 Article 15 of the Framework Decision, headed ‘Surrender decision’, provides in paragraph 2 thereof as follows:

‘If the executing judicial authority finds the information communicated by the issuing Member State to be insufficient to allow it to decide on surrender, it shall request that the necessary supplementary information, in particular with respect to Articles 3 to 5 and Article 8, be furnished as a matter of urgency and may fix a time limit for the receipt thereof, taking into account the need to observe the time limits set in Article 17.’

#### *Romanian law*

8 The legea numărul 302/2004 privind cooperarea judiciară internațională în materie penală (Law No 302/2004 on international judicial cooperation in criminal matters) of 28 June 2004, in the version applicable at the material time (*Monitorul Oficial al României*, Part I, No 377, of 31 May 2011), is intended, inter alia, to implement the Framework Directive.

*Hungarian law*

- 9 Article 25 of the az Európai Unió tagállamival folytatott bűnügyi együttműködésről szóló 2012. évi CLXXX. törvény (Law No CLXXX. of 2012 on cooperation between the Member States of the European Union in criminal law matters) (*Magyar Közlöny* 2012/160) provides as follows:

‘(1) Where it is necessary to commence criminal proceedings in respect of a suspected person, the court shall issue immediately a European arrest warrant with a view to that person’s arrest and surrender in any Member State of the European Union, provided that this is warranted by the seriousness of the offence ...

...

(7) The scope of the European arrest warrant shall also extend to the territory of Hungary.’

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

- 10 On 23 March 2015, the Mátészalkai járásbíróság (District Court, Mátészalka) issued a European arrest warrant against Mr Bob-Dogi, a Romanian national, in connection with criminal proceedings commenced against him in respect of offences committed in Hungary on 27 November 2013, which may be classified as ‘serious bodily harm’.
- 11 Those offences related to a road traffic accident on the public highway for which Mr Bob-Dogi was responsible due to the excessive speed at which the lorry he was driving was travelling and which caused multiple fractures and injuries to Mr Katona, a Hungarian national, who was riding a moped when the accident occurred.
- 12 On 30 March 2015, an alert concerning the European arrest warrant at issue in the main proceedings was filed in the Schengen Information System.
- 13 On 2 April 2015, Mr Bog-Dogi was arrested in Romania and, after being placed in detention, appeared before the Curtea de Apel Cluj (Appeal Court, Cluj, Romania) so that that court could decide whether he was to be remanded in custody and surrendered to the Bulgarian judicial authorities.
- 14 By order issued the same day, that court rejected the proposal of the public prosecutor’s office that Mr Bob-Dogi should be remanded in custody and ordered his immediate release, while at the same time ordering that he be subject to supervision measures for an initial period of 30 days, which was subsequently extended.
- 15 The referring court observes that point (b) of the European arrest warrant at issue, headed ‘Decision on which the arrest warrant is based’, stated ‘public prosecutor’s office attached to Nyíregyházi járásbíróság (District Court, Nyíregyház, Hungary), K.11884/2013/4’, and point b(1) of that arrest warrant, which must be completed with the details of the arrest warrant or judicial decision of equivalent effect, stated ‘European arrest warrant No 1.B.256/2014/19-II, issued by the Mátészalkai járásbíróság (District Court, Mátészalka), also covering the territory of Hungary, thus constituting, at the same time, a national arrest warrant’.
- 16 The referring court also states that, with regard to a situation such as that in the case before it, in which a European arrest warrant is based on itself and not on a prior, separate national warrant, the Romanian courts take divergent views on the appropriate course of action to be taken in response to such a European arrest warrant.

- 17 The majority view is that in such a situation a distinction must be made as regards both formal and substantive requirements and the request for execution of the European arrest warrant must be refused on the ground that it does not make up for the absence of a national arrest warrant or an enforceable judicial decision.
- 18 However, other courts have accepted the request for execution of a European arrest warrant on the ground that the statutory requirements were satisfied, in so far as the issuing judicial authorities have expressly indicated that the European arrest warrant issued also constituted a national arrest warrant for the purposes of the law of the issuing Member State.
- 19 In that regard, the referring court considers that, in the procedure for the execution of a European arrest warrant, the decision that must be recognised by the executing judicial authority must be a national judicial decision issued by the competent authority in accordance with the rules of criminal procedure of the Member State issuing the European arrest warrant.
- 20 The referring court considers that there are fundamental differences between a European arrest warrant and a national arrest warrant. In particular, a European arrest warrant is issued with a view to the arrest and surrender of a person — charged or convicted — who is in the territory of the executing Member State, whereas a national arrest warrant is issued with a view to the arrest of a person who is in the territory of the issuing Member State.
- 21 Moreover, according to the referring court, the issue of a European arrest warrant is based on an arrest warrant or a decision relating to the execution of a custodial sentence, whereas a national arrest warrant is issued on the basis of conditions and situations expressly governed by the criminal law procedure of the issuing Member State.
- 22 That court considers that, in the absence of a national arrest warrant, a person cannot be arrested and held in custody and that it cannot be accepted that the European arrest warrant is ‘transformed’ into a national arrest warrant after the surrender of the requested person. Such an interpretation would also be at odds with the fundamental rights conferred by EU law.
- 23 That court concludes that the European arrest warrant must be based on a national arrest warrant issued in accordance with the rules of criminal procedure of the issuing Member State, namely a warrant that is distinct from the European arrest warrant.
- 24 Lastly, the referring court considers that, in addition to the optional and mandatory grounds for refusal set out in the Framework Decision, other, implied, grounds for refusal are invoked in judicial practice. That would be the case where the formal or substantive requirements specific to the European arrest warrant are not satisfied, inter alia where no national arrest warrant exists in the issuing Member State, as is the case in the main proceedings.
- 25 In those circumstances, the Curtea de Apel Cluj (Appeal Court, Cluj) decided to stay proceedings and refer the following questions to the Court for a preliminary ruling:
- ‘1. For the purposes of the application of Article 8(1)(c) of the Framework Decision, must the expression “evidence of ... an arrest warrant” be understood to refer to a national arrest warrant issued in accordance with the procedural rules of the issuing Member State, and therefore distinct from the European arrest warrant?
  2. If the first question is answered in the affirmative, may the non-existence of a national arrest warrant constitute an implied reason for non-execution of the European arrest warrant?’

## Procedure before the Court

- 26 The referring court requested that this request for a preliminary ruling be dealt with under the urgent procedure provided for in Article 107 of the Court's Rules of Procedure.
- 27 In support of its request, the referring court observes, in particular, that Mr Bob-Dogi is not currently in custody but is subject to supervision measures, which also restrict his personal freedom.
- 28 On 4 June 2015, acting on a proposal from the Judge-Rapporteur and after hearing the Advocate General, the Court decided that there was no need to grant that request.
- 29 By decision of 30 June 2015, the President of the Court gave the case priority over others, pursuant to Article 53(3) of the Rules of Procedure.

## Consideration of the questions

### *Question 1*

- 30 By its first question, the referring court seeks to ascertain, in essence, whether Article 8(1)(c) of the Framework Decision is to be interpreted as meaning that the term 'arrest warrant', as used in that provision, must be understood as referring to a national arrest warrant that is distinct from a European arrest warrant.
- 31 First, it should be noted that the purpose of the Framework Decision, as is apparent from Article 1(1) and (2) and recitals 5 and 7 thereof in particular, 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 5 April 2016 in *Aranyosi and Căldăraru*, C-404/15 and C-659/15 PPU, EU:C:2016:198, paragraph 75 and the case-law cited).
- 32 The Framework Decision 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 to become an area of freedom, security and justice, founded on the high level of confidence which should exist between the Member States (judgment of 5 April 2016 in *Aranyosi and Căldăraru*, C-404/15 and C-659/15 PPU, EU:C:2016:198, paragraph 76 and the case-law cited).
- 33 The principle of mutual recognition on which the European arrest warrant system is based is itself founded on the mutual confidence between the Member States that their national legal systems are capable of providing equivalent and effective protection of the fundamental rights recognised at EU level, particularly in the Charter of Fundamental Rights of the European Union (judgment of 5 April 2016 in *Aranyosi and Căldăraru*, C-404/15 and C-659/15 PPU, EU:C:2016:198, paragraph 77 and the case-law cited).
- 34 Lastly, it should be observed that compliance with the Charter of Fundamental Rights of the European Union is binding, as is stated in Article 51(1) of the Charter, on the Member States and, consequently, on their courts, when they are implementing EU law, which is the case when the issuing judicial authority and the executing judicial authority are applying the provisions of national law adopted to transpose the Framework Decision (see, to that effect, judgment of 5 April 2016 in *Aranyosi and Căldăraru*, C-404/15 and C-659/15 PPU, EU:C:2016:198, paragraph 84).

- 35 Article 8(1)(c) of the Framework Decision, an interpretation of which is sought by the present request for a preliminary ruling, provides that the European arrest warrant must contain information, set out in accordance with the form contained in the annex thereto, relating to ‘evidence of an enforceable judgment, an arrest warrant or any other enforceable judicial decision having the same effect, coming within the scope of Articles 1 and 2’ of the Framework Decision.
- 36 That information must be given in section (b) of the form contained in the Annex to the Framework Decision, headed ‘Decision on which the warrant is based’, section 1 of which is to be completed by indicating the ‘[a]rrest warrant or judicial decision having the same effect’.
- 37 It is apparent from the documents before the Court that, in a situation such as that in the main proceedings, in which there is evidence to suggest that the person requested was already outside the territory of Hungary when the European arrest warrant was issued, a ‘simplified’ procedure is applied in that Member State.
- 38 Under that procedure, it is possible for a European arrest warrant to be issued directly, without the need for any prior national arrest warrant.
- 39 In such cases, section b(1) of the European arrest warrant form contained in the Annex to the Framework Decision is completed by identifying the European arrest warrant in question, and, where appropriate, mention is made of the fact that the scope of that warrant also extends to Hungarian territory and that the European arrest warrant therefore constitutes, at the same time, a national arrest warrant.
- 40 It is also apparent from the documents before the Court that that practice is based, under Hungarian law, on Article 25(7) of Law No CLXXX of 2012 on cooperation between the Member States of the European Union in criminal matters, which provides that the European arrest warrant is also valid on Hungarian territory.
- 41 The question therefore arises as to whether that practice, as applied in the main proceedings, is consistent with the letter and spirit of the Framework Decision, in particular Article 8(1)(c) thereof.
- 42 It should be noted in that regard that, while the Framework Decision does not define the term ‘arrest warrant’, as used in Article 8(1)(c) thereof, ‘European arrest warrant’ is defined in Article 1(1) of that decision as ‘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’.
- 43 It is that definition of ‘European arrest warrant’, which is used systematically in the title, recitals and articles of the Framework Decision, with the exception of Article 8(1)(c), which suggests that the latter provision refers to an arrest warrant other than the European arrest warrant referred to by all the other provisions of the Framework Decision, which may therefore only be a national arrest warrant.
- 44 That interpretation is also supported by the wording of section (b) of the form contained in the Annex to the Framework Decision, in particular by the words ‘Decision on which the warrant is based’, a formula to which the first subparagraph of Article 8(1) of that decision expressly refers and which must therefore be taken into account for the purpose of interpreting Article 8(1)(c) as those words confirm that the European arrest warrant must be based on a judicial decision, thus implying that what is meant is a judicial decision that is separate from the decision issuing the European arrest warrant.

- 45 Moreover, whereas the practice of following the ‘simplified’ procedure is intended by the Hungarian judicial authorities as an exception applicable only where there is evidence to suggest that the person requested was already outside the territory of Hungary when the European arrest warrant was issued, the wording of Article 8(1)(c) of the Framework Decision contains nothing to suggest that the requirement laid down in that provision would allow any exception specifically covering such a situation.
- 46 Those various aspects of a textual nature confirm that the term ‘arrest warrant’, as used in Article 8(1)(c) of the Framework Decision, refers only to the national arrest warrant, which is to be understood as the judicial decision on which the European arrest warrant is based.
- 47 On the other hand, the opposite interpretation, to the effect that that term must be understood in a generic sense, so that it encompasses any type of arrest warrant, including the European arrest warrant, as it implies that it is sufficient for a European arrest warrant simply to refer to itself, so that, in short, it may be based on itself, cannot be accepted also because it is likely to deprive the requirement laid down in Article 8(1)(c) of the Framework Decision of any independent scope and, therefore, of any practical effect.
- 48 It also follows that the words ‘or any other enforceable judicial decision having the same effect’ in Article 8(1)(c) of the Framework Decision cannot be understood as referring to the decision issuing a European arrest warrant.
- 49 Furthermore, the interpretation of Article 8(1)(c) of the Framework Decision to the effect that the European arrest warrant must necessarily be based on a national judicial decision that is distinct from that warrant, taking the form, as the case may be, of a national arrest warrant, follows not only from the wording of that provision but also its context and the objectives pursued by the Framework Decision, which, according to the Court’s case-law, must be taken into account in interpreting that decision (see, to that effect, *inter alia*, judgment of 16 July 2015 in *Lanigan*, C-237/15 PPU, EU:C:2015:474, paragraph 35 and the case-law cited).
- 50 As regards the context of which Article 8(1)(c) of the Framework Decision forms part, the correctness of that interpretation is confirmed, as the Advocate General observed at point 49 of his Opinion, by the history of that provision because, in the initial draft, the provision stated that the European arrest warrant must contain information as to ‘whether there is a final judgment or any other enforceable judicial decision’.
- 51 Accordingly, the fact that, in its final version, that provision no longer contains any element of an optional nature lends support to an interpretation of the provision to the effect that the European arrest warrant must, in all cases, be based on one of the national judicial decisions referred to in the provision, which may be, where relevant, the decision issuing a national arrest warrant.
- 52 Lastly, with regard to the objectives of the Framework Decision, it should be noted that the issue of a European arrest warrant in accordance with the ‘simplified procedure’ — thus not entailing the issue of any prior national judicial decision, such as a national arrest warrant, which forms the basis of the European arrest warrant — may interfere with the principles of mutual recognition and confidence on which the European arrest warrant system is based.
- 53 Indeed, those principles are based on the premiss that the European arrest warrant concerned has been issued in conformity with the minimum requirements necessary for it to be valid, which include the requirement laid down in Article 8(1)(c) of the Framework Decision.
- 54 Where the executing judicial authority is faced with a European arrest warrant issued under a ‘simplified’ procedure, such as the warrant at issue in the main proceedings, which is based on the existence of an arrest warrant within the meaning of Article 8(1)(c) of the Framework Decision, but

the European arrest warrant does not refer to a national arrest warrant that is distinct from the European warrant, it is not in a position to verify whether the European arrest warrant concerned complies with the requirement laid down in Article 8(1)(c) of the Framework Decision.

- 55 Moreover, compliance with the requirement laid down in Article 8(1)(c) of the Framework Decision is of particular importance since it means that, where the European arrest warrant has been issued with a view to the arrest and surrender by another Member State of a requested person for the purposes of conducting a criminal prosecution, that person should have already had the benefit, at the first stage of the proceedings, of procedural safeguards and fundamental rights, the protection of which it is the task of the judicial authority of the issuing Member State to ensure, in accordance with the applicable provisions of national law, for the purpose, inter alia, of adopting a national arrest warrant.
- 56 The European arrest warrant system therefore entails, in view of the requirement laid down in Article 8(1)(c) of the Framework Decision, a dual level of protection for procedural rights and fundamental rights which must be enjoyed by the requested person, since, in addition to the judicial protection provided at the first level, at which a national judicial decision, such as a national arrest warrant, is adopted, is the protection that must be afforded at the second level, at which a European arrest warrant is issued, which may occur, depending on the circumstances, shortly after the adoption of the national judicial decision.
- 57 That dual level of judicial protection is lacking, in principle, in a situation such as that in the main proceedings, in which a ‘simplified’ European arrest warrant procedure is applied, since, under that procedure, no decision, such as a decision to issue a national arrest warrant on which the European arrest warrant will be based, has been taken by a national judicial authority before the European arrest warrant is issued.
- 58 In the light of all the foregoing considerations, the answer to the first question is that Article 8(1)(c) of the Framework Decision is to be interpreted as meaning that the term ‘arrest warrant’, as used in that provision, must be understood as referring to a national arrest warrant that is distinct from the European arrest warrant.

### Question 2

- 59 By its second question, the referring court seeks to ascertain, in essence, whether Article 8(1)(c) of the Framework Decision is to be interpreted as meaning that, where a European arrest warrant based on the existence of an ‘arrest warrant’ within the meaning of that provision does not contain any reference to the existence of a national arrest warrant, the executing judicial authority may refuse to give effect to it.
- 60 It should be noted in that regard that, in the area governed by the Framework Decision, the principle of mutual recognition, which constitutes, as stated in particular in recital 6 of that decision, the ‘cornerstone’ of judicial cooperation in criminal matters, is given effect in Article 1(2) of the Framework Decision, pursuant to which Member States are in principle obliged to give effect to a European arrest warrant (judgment in *Aranyosi and Căldăraru*, C-404/15 and C-659/15 PPU, EU:C:2016:198, paragraph 79).
- 61 It follows that the executing judicial authority may refuse to execute such a warrant only in the cases, exhaustively listed, of obligatory non-execution laid down in Article 3 of the Framework Decision, or of optional non-execution, laid down in Article 4 and 4a of the Framework Decision. Moreover, the execution of the European arrest warrant may be made subject only to one of the conditions exhaustively laid down in Article 5 of that Framework Decision (judgment in *Aranyosi and Căldăraru*, C-404/15 and C-659/15 PPU, EU:C:2016:198, paragraph 80).

- 62 It is clear that the absence of any indication in the European arrest warrant of the existence of a national arrest warrant is not one of the grounds for non-execution listed in Articles 3, 4 and 4a of the Framework Decision and nor does it fall within the scope of Article 5 of that decision.
- 63 However, as the Advocate General also observed at point 107 of his Opinion, while those provisions of the Framework Decision leave no discretion as to the grounds for non-execution other than set out in those provisions, the fact nevertheless remains that those provisions are based on the premiss that the European arrest warrant concerned will satisfy the requirements as to the lawfulness of that warrant laid down in Article 8(1) of the Framework Decision.
- 64 Given that Article 8(1)(c) of the Framework Decision lays down a requirement as to lawfulness which must be observed if the European arrest warrant is to be valid, failure to comply with that requirement must, in principle, result in the executing judicial authority refusing to give effect to that warrant.
- 65 That being so, before adopting such a decision, which, by its very nature, must remain the exception in the application of the surrender system established by the Framework Decision, as that system is based on the principles of mutual recognition and confidence, the executing judicial authority must, pursuant to Article 15(2) of the Framework Decision, request the judicial authority of the issuing Member State to furnish all necessary supplementary information as a matter of urgency to enable it to examine whether the fact that the European arrest warrant does not state whether there is a national arrest warrant may be explained either by the fact that no separate national warrant was issued prior to the issue of the European arrest warrant or that such a warrant exists but was not mentioned.
- 66 If, in the light of the information provided pursuant to Article 15(2) of the Framework Decision and any other information available to the executing judicial authority, that authority reaches the conclusion that, although it is based on the existence of an ‘arrest warrant’ for the purpose of Article 8(1)(c) of the Framework Decision, the European arrest warrant was in fact issued in the absence of any national arrest warrant separate from the European warrant, that authority must refuse to give effect to the European warrant on the basis that it does not satisfy the requirements as to lawfulness laid down in Article 8(1) of the Framework Decision.
- 67 In the light of the foregoing considerations, the answer to Question 2 is that Article 8(1)(c) of the Framework Decision is to be interpreted as meaning that, where a European arrest warrant based on the existence of an ‘arrest warrant’ within the meaning of that provision does not contain any reference to the existence of a national arrest warrant, the executing judicial authority must refuse to give effect to it if, in the light of the information provided pursuant to Article 15(2) of the Framework Decision and any other information available to it, that authority concludes that the European arrest warrant is not valid because it was in fact issued in the absence of any national warrant separate from the European arrest warrant.

### Costs

- 68 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 (Second Chamber) hereby rules:

- 1. Article 8(1)(c) of the 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, is to be interpreted as meaning that the term ‘arrest warrant’, as used in that provision, must be understood as referring to a national arrest warrant that is distinct from the European arrest warrant.**

2. **Article 8(1)(c) of Framework Decision 2002/584, as amended by Framework Decision 2009/299, is to be interpreted as meaning that, where a European arrest warrant based on the existence of an ‘arrest warrant’ within the meaning of that provision does not contain any reference to the existence of a national arrest warrant, the executing judicial authority must refuse to give effect to it if, in the light of the information provided pursuant to Article 15(2) of Framework Decision 2002/584, as amended, and any other information available to it, that authority concludes that the European arrest warrant is not valid because it was in fact issued in the absence of any national warrant separate from the European arrest warrant.**

[Signatures]