



Press and Information

Court of Justice of the European Union

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Judgment in Case C-294/16 PPU  
JZ v Prokuratura Rejonowa Łódź–Śródmieście

**The Member State that issued a European arrest warrant is required to consider, for the purposes of deducting the period of detention served in the executing Member State, whether the measures taken against the person concerned in the executing State have the effect of depriving a person of liberty**

*A nine hour daily curfew monitored by means of an electronic tag does not, in principle, have that effect*

By a judgment of 27 March 2007, the Sąd Rejonowy dla Łodzi–Śródmieścia w Łodzi (District Court for Central Łódź, Łódź, Poland) gave Mr JZ a custodial sentence of three years and two months. As Mr JZ had absconded, a European arrest warrant was issued for him. On 18 June 2014, Mr JZ was arrested by the UK authorities under that European arrest warrant.

From 19 June 2014 to 14 May 2015, Mr JZ, who was released on bail of £2,000, was required to stay at the address which he had provided between the hours of 10 p.m. and 7 a.m., and his compliance with that requirement was subject to electronic monitoring. In addition, Mr JZ was required to appear regularly at a police station, not to apply for foreign travel documents and to keep his mobile telephone switched on and charged at all times. Those measures were applied until 14 May 2015, the date on which he was surrendered to the Polish authorities.

Mr JZ has requested in the Polish court that the period during which he was subject to a curfew in the UK and to electronic monitoring count towards the custodial sentence imposed on him in Poland. He refers to the Framework Decision on the European arrest warrant,<sup>1</sup> which notably provides that the Member State which issued a European arrest warrant is to deduct all periods of detention arising from the execution of that warrant from the total period of detention to be served in that issuing Member State as a result of a custodial sentence or detention order being passed.

The Polish court has asked the Court of Justice whether the term ‘detention’ also covers measures applied by the executing Member State that consist in the electronic monitoring of the whereabouts of the subject of the warrant, in conjunction with a curfew.

In today’s judgment, the Court observes, first of all, that the concept of ‘detention’, which appears in the Framework Decision, is an autonomous concept of EU law that must be interpreted uniformly throughout the EU.

Next, it notes that the obligation to deduct the period of detention arising from the execution of the European arrest warrant from the total period of detention which the person concerned is required to serve in the issuing Member State, is designed to meet the general objective of respecting fundamental rights, by preserving the right to liberty of the person concerned and the practical effect of the principle of proportionality in the application of penalties.

By requiring account to be taken of any period during which the person convicted was detained in the executing Member State, the Framework Decision ensures that that person is not required to serve a period of detention the total length of which — both in the executing Member State and in

<sup>1</sup> 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).

the Member State which issued the European arrest warrant — would ultimately exceed the length of the custodial sentence imposed on him in the issuing Member State.

The Court finds that the Framework Decision cannot be interpreted as merely requiring the Member State which issued the European arrest warrant to deduct only periods of imprisonment in the Member State which executed that warrant, excluding periods during which other measures were applied that involve **deprivation** of liberty with effects comparable to those of imprisonment.

**The concept of ‘detention’** within the meaning of the Framework Decision **refers not to a measure that is restrictive of liberty but to one that deprives a person of it**, and covers not only imprisonment but also any measure or set of measures imposed on the person concerned which, on account of the type of measure, duration, effects and means of implementation deprive the person concerned of his liberty in a way that is comparable to imprisonment.

Consequently, **the judicial authority of the Member State that issued the European arrest warrant is required to consider whether the measures taken against the person concerned in the executing Member State must be treated in the same way as a deprivation of liberty** and therefore constitute ‘detention’. If, in carrying out that examination, the judicial authority comes to the conclusion that they do, the Framework Decision requires that the whole of the period during which those measures were applied be deducted from the period of detention.

In the present case, while the measures taken against Mr JZ in the UK certainly restrict his freedom of movement, they are not, in principle, so restrictive as to have the effect of depriving him of his liberty and thus to be characterised as ‘detention’ within the meaning of the Framework Decision.

However, in so far as the Framework Decision merely imposes a minimum level of protection of the fundamental rights of a person subject to a European arrest warrant, the Framework Decision does not preclude the judicial authority of the Member State that issued the warrant from being able, on the basis of national law alone, to deduct from the total period of detention all or part of the period during which that person was subject, in the executing Member State, to measures involving not a deprivation of liberty but a restriction of it.

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court’s decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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