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Court of Justice of the European Union
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Judgment in Case C-203/20
AB and Others (Revocation of an amnesty)

The principle *ne bis in idem* does not preclude the issue of a European arrest warrant against persons accused of abducting the son of a former Slovak President

The bringing to an end of the criminal prosecutions by way of an amnesty and the revocation of that amnesty do not preclude the issue of an arrest warrant since the national judicial authorities have not yet ruled on the criminal liability of the accused persons

Former members of the Slovak security services are accused in Slovakia of having committed a series of offences in 1995, including the abduction of a person to a foreign country, the alleged victim of which was the son of the then Slovak President.

On 3 March 1998, the Slovak Prime Minister, who, because the term of office of the Slovak President had expired, was exercising the President's powers at that time, issued an amnesty covering those offences. The criminal proceedings instituted in connection with the offences in question were definitively brought to an end on 29 June 2001. Under Slovak legislation, that bringing to an end of the prosecutions had the same effects as a judgment of acquittal.

By resolution of 5 April 2017, the Národná rada Slovenskej republiky (National Council of the Slovak Republic) revoked that amnesty. The Ústavný súd Slovenskej republiky (Constitutional Court of the Slovak Republic) subsequently found that that resolution was compliant with the Constitution. The criminal proceedings which had been brought to an end by reason of the amnesty were then reopened.

The Okresný súd Bratislava III (District Court, Bratislava III, Slovakia), before which those proceedings have been brought, intends to issue a European arrest warrant against one of the accused persons. In that context, it asks the Court of Justice, in essence, whether, in the circumstances of the present case, the issue of such a European arrest warrant and the revocation of the amnesty are compatible with EU law and, more specifically, with the Charter of Fundamental Rights of the European Union. The Slovak court bases its doubts on, inter alia, the principle *ne bis in idem*,¹ since the criminal proceedings brought against the person concerned for the offences in question had previously been definitively brought to an end.

By today's judgment, the Court finds, first of all, **that the dispute in the main proceedings comes within the scope of EU law since the Framework Decision on the European arrest warrant² and, therefore, the provisions of the Charter relating to the principle *ne bis in idem*, as implemented by, inter alia, the Framework Decision, are capable of applying to the procedure for issuing a European arrest warrant, which the Slovak court intends to initiate.**

Next, the Court points out that **the principle *ne bis in idem* can be invoked only where the criminal liability of the person concerned has been examined and a determination in that regard has been made.** Such an interpretation alone is in line with the legitimate objective of preventing impunity for persons who have committed an offence.

¹ According to that principle, a person cannot be liable to be tried or punished again in criminal proceedings for an offence for which he or she has already been finally acquitted or convicted within the European Union in accordance with the law.

² 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).

In that regard, the Court notes that the decision of 29 June 2001 by which the criminal prosecutions brought against the persons concerned were brought to an end has, under national Slovak law, the same effects as a decision of acquittal.

However, the Court considers that, irrespective of the nature and effects of that decision under Slovak law, it would appear from the material before the Court that **the sole effect of that decision was to discontinue those criminal prosecutions before the Slovak courts or tribunals could rule on the criminal liability of the persons being prosecuted.**

In those circumstances, the Court states that, **since the decision of 29 June 2001 was adopted before any determination was made as to the criminal liability of the accused persons concerned, the principle *ne bis in idem* does not preclude the issue of a European arrest warrant in their regard.**

Lastly, the Court holds that national legislation laying down a legislative procedure for the revocation of an amnesty and a judicial procedure the purpose of which is to review the compliance of that revocation with the Constitution is not an implementation of EU law, since such procedures do not come within the scope of EU law.

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 European Union 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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