



PRESS RELEASE No 59/23

Luxembourg, 18 April 2023

Judgment of the Court in Case C-699/21 | E. D. L. (Ground for refusal based on illness)

European arrest warrant: a manifest risk that the health of the requested person will be jeopardised justifies temporarily suspending his or her surrender and obliges the executing authority to ask the issuing authority for information concerning the conditions in which it intends to prosecute or detain that person

If the surrender of a person who is seriously ill is likely to give rise to a risk of inhuman or degrading treatment which cannot be ruled out within a reasonable period of time, the executing authority cannot execute the arrest warrant.

On 9 September 2019, the Municipal Court, Zadar (Croatia) issued a European arrest warrant for E.D.L., who is living in Italy, for the purposes of bringing criminal proceedings against him in Croatia.

After assessment by a psychiatrist, the Court of Appeal, Milan (Italy) – which has jurisdiction to execute that arrest warrant – found that he was suffering from a psychotic disorder requiring treatment with medication and psychotherapy and that there was a significant risk that he would commit suicide if he were detained. It concluded that execution of the European arrest warrant would interrupt E.D.L.'s treatment and would cause his general health to deteriorate, the effects of which could be exceptionally serious, and could even lead to an increased risk of suicide. It also concluded that the Italian provisions transposing the framework decision on the European arrest warrant do not provide that such reasons linked to health can constitute a grounds for refusing surrender. It therefore asked the Italian Constitutional Court whether those provisions were compatible with the constitution.

The Constitutional Court took the view that the case concerned not only the compatibility of those provisions with the Italian Constitution, but also the interpretation of EU law which they implement and therefore decided to make a reference to the Court of Justice. Since no provision was made for refusing to surrender the requested person in the event of chronic illnesses of potentially indefinite duration, the Italian Constitutional Court asks the Court how to avoid a risk of causing serious harm to that person's health, the condition of which was likely to deteriorate significantly in the event of surrender. In particular, it asks whether the executing judicial authority must request from the issuing judicial authority information allowing the existence of such a risk to be ruled out and whether it must refuse to surrender the requested person if it does not obtain, within a reasonable period of time, the assurances required to rule out that risk.

In today's judgment, **the Court, sitting in its Grand Chamber formation, notes that the principles of mutual trust and recognition are of fundamental importance in EU law, the second of those principles constituting the 'cornerstone' of judicial cooperation in criminal matters.**

It follows, first, that the executing judicial authority can refuse to execute a European arrest warrant only on the

basis of the grounds set out in the framework decision and, second, that a refusal to execute is to be understood as an exception and must be interpreted strictly. There is indeed an assumption that the care and treatment provided in Member States for managing, among other things, chronic and potentially irreversible serious illnesses will be adequate. However, where there are substantial grounds, based on objective material, for taking the view that the surrender of a requested person manifestly risks putting his or her health in danger, the executing judicial authority may, exceptionally, temporarily suspend that surrender. The power to assess that risk must be exercised by the executing judicial authority in observance of the prohibition on inhuman or degrading treatment provided for in the Charter of Fundamental Rights of the European Union. To fall under that prohibition, that treatment must, nevertheless, attain a minimum level of severity exceeding the unavoidable level of suffering inherent in detention.

Where the executing judicial authority has, in the light of the objective material available to it, genuine and established grounds for believing that the surrender of the requested person, who is seriously ill, would expose him or her to a genuine risk of a significant reduction in his or her life expectancy or of rapid, significant and irreversible deterioration of his or her health, **that authority must suspend the surrender**. In those circumstances, in order to ensure effective cooperation in criminal matters, **it must ask the issuing judicial authority to provide all information relating to the conditions in which it intends to prosecute or detain that person. If the risk referred to above can be ruled out by guarantees provided by the issuing judicial authority, the European arrest warrant must then be executed.**

It is nevertheless possible that, in exceptional circumstances, in the light of the information provided by the issuing judicial authority, the executing judicial authority arrives at the conclusion, first, that, in the event that the person concerned is surrendered to the issuing Member State, that person will genuinely be at risk of inhuman and degrading treatment and, second, that risk cannot be ruled out within a reasonable period of time. In those circumstances, **the executing judicial authority must refuse to execute the European arrest warrant. On the other hand, if that risk can be ruled out within a reasonable period of time, a new date of surrender must be arranged with the issuing judicial authority.**

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.

Unofficial document for media use, not binding on the Court of Justice.

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

Press contact: Jacques René Zammit ☎(+352) 4303 3355

Pictures of the delivery of the judgment are available from '[Europe by Satellite](#)' ☎(+32) 2 2964106

Stay Connected!

