



Press and Information

Court of Justice of the European Union

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Judgment in Case C-237/15 PPU
Minister for Justice and Equality v Francis Lanigan

The expiry of the time-limits to take a decision on the execution of a European arrest warrant does not free the competent court of its obligation to adopt a decision in that regard and does not preclude, in itself, the continued holding of the requested person in custody

The release of the requested person, together with the measures necessary to prevent him from absconding must, however, be ordered if the duration of the custody is excessive

The European arrest warrant, introduced by a Framework Decision¹ of 2002, aims to simplify and accelerate the procedures making it possible to surrender a requested person to another Member State for the purposes of conducting a criminal prosecution or executing a custodial sentence in that State.

In December 2012, the British authorities issued a European arrest warrant in respect of Francis Lanigan, regarding criminal proceedings brought against him in the United Kingdom for the alleged offences, committed in the United Kingdom in 1998, of murder and possession of a firearm with intent to endanger life. In January 2013, Mr Lanigan was arrested on the basis of that European arrest warrant by the Irish authorities. Mr Lanigan stated that he did not consent to his surrender to the United Kingdom judicial authorities and was placed in custody pending a decision in that regard.

The Irish High Court was not able to begin its examination of Mr Lanigan's situation until 30 June 2014, following a series of adjournments resulting from procedural incidents. The examination of the case thus continued until Mr Lanigan submitted, in December 2014, that the fact that the time-limits laid down in the Framework Decision within which a decision on the execution of the European arrest warrant is to be taken (namely, 60 days after the arrest, with a possible extension of an additional 30 days) meant that proceedings could not be continued. The High Court asks the Court of Justice whether the failure to observe those time-limits precludes it from taking a decision on the execution of the European arrest warrant and whether Mr Lanigan may be held in custody even though the total duration of the period he has spent in custody exceeds those time-limits.

In today's judgment, the Court considers that, in the light, inter alia, of the central function of the obligation to execute the European arrest warrant and of the absence of any explicit indication to the contrary in the Framework Decision, **the national authorities are required to continue the execution procedure for the warrant and to take a decision on its execution, even where the time-limits prescribed have expired.** To abandon the procedure in cases where the time-limits have expired would adversely affect the objective of accelerating and simplifying judicial cooperation and encourage delaying tactics.

As regards the holding of the person in custody, the Court considers that **no provision of the Framework Decision provides that the person being held in custody must be released once the time-limits have expired.** Moreover, in so far as the procedure for the execution of the European arrest warrant must be continued after the expiry of the time-limits, a general and

¹ 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), as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 (OJ 2009 L 81, p. 24).

unconditional obligation to release the person upon expiry of the time-limits could limit the effectiveness of the surrender system put in place by the Framework Decision and, consequently, obstruct the attainment of the objectives pursued by it.

However, the Court notes that the Framework Decision must be interpreted in accordance with the Charter of Fundamental Rights of the European Union and, in particular, the fundamental right to liberty and security. In that regard, the Court considers **that a person held on the basis of a European arrest warrant awaiting release can be held in custody only in so far the total duration of his custody is not excessive.**

In order to ensure this is not the case, the executing judicial authority (in this instance, the High Court) will be required to carry out a concrete review of the situation at issue, taking account of all of the relevant factors with a view to evaluating the justification for the duration of the procedure (including the possible failure to act on the part of the authorities of the Member States concerned or any contribution of the requested person to that duration). Similarly, it will be required to take account of the sentence potentially faced by the requested person or delivered in his regard, the risk of that person absconding and the fact that the requested person has been held in custody for a period the total of which greatly exceeds the time-limits stipulated in the Framework Decision for the adoption of the decision on the execution of the warrant.

The Court points out that **if the executing judicial authority brings an end to the custody of the requested person** it is required, in accordance with the Framework Decision, **to attach to the provisional release of that person any measures it deems necessary so as to prevent him from absconding** and to ensure that the material conditions necessary for his surrender remain fulfilled for as long as no final decision on the execution of the European arrest warrant has been taken.

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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