



Press and Information

Court of Justice of the European Union

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Judgment in Joined Cases C-404/15 and C-659/15 PPU  
Pál Aranyosi and Robert Căldăraru

**The execution of a European arrest warrant must be deferred if there is a real risk of inhuman or degrading treatment because of the conditions of detention of the person concerned in the Member State where the warrant was issued**

*If the existence of that risk cannot be discounted within a reasonable period, the authority responsible for the execution of the warrant must decide whether the surrender procedure should be brought to an end*

In Case C-404/15, a Hungarian investigating magistrate issued two European arrest warrants with respect to Mr Pál Aranyosi, a Hungarian national, so that a criminal prosecution could be brought for two offences of forced entry and theft, allegedly committed by Mr Aranyosi in Hungary.

In Case C-659/15 PPU, a Romanian court issued a European arrest warrant with respect to Mr Robert Căldăraru to secure the enforcement in Romania of a prison sentence of one year and eight months imposed for driving without a driving licence.

The two men having been located in Germany, it is the task of the German authorities to examine the warrants.

The Hanseatisches Oberlandesgericht in Bremen (Higher Regional Court of Bremen, Germany), which has to decide whether those warrants should be executed, found that the detention conditions to which Mr Aranyosi and Mr Căldăraru might be subject in the Hungarian and Romanian prisons respectively were contrary to fundamental rights, in particular the provision of the Charter of Fundamental Rights of the European Union prohibiting inhuman or degrading treatment or punishment. In judgments of 10 June 2014 and 10 March 2015 the European Court of Human Rights held that Romania and Hungary had infringed fundamental rights due to the prison overcrowding which is characteristic of their prisons.<sup>1</sup>

The German court seeks to ascertain from the Court of Justice whether, in such circumstances, the execution of European arrest warrants can or must be refused or made subject to the condition that information sufficient to establish that detention conditions are compatible with fundamental rights is obtained from the Member State where a warrant was issued.

Since Mr Căldăraru is currently detained in Germany, his case has been dealt with under the urgent preliminary ruling procedure provided by the Court's Rules of Procedure. Since Mr Aranyosi is not currently in custody, his case was not dealt with under that procedure. However, given that the two cases have the same subject matter, the Court decided to join the cases for judgment.

In today's judgment, the Court states that the absolute prohibition on inhuman or degrading treatment or punishment is part of the fundamental rights protected by EU law. Accordingly, where the authority responsible for the execution of a warrant has in its possession evidence of a real risk of inhuman or degrading treatment of persons detained in the Member State where the warrant

<sup>1</sup>With respect to Romania, the cases concerned are *Vociu v. Romania*, No 22015/10; *Bujorean v. Romania*, No 13054/12; *Mihai Laurențiu Marin v. Romania*, No 79857/12, and *Constantin Aurelian Burlacu v. Romania*, No 51318/12.

With respect to Hungary, the cases concerned are *Varga and Others v. Hungary*, Nos 14097/12, 45135/12, 73712/12, 34001/13, 44055/13 and 64586/13.

was issued, that authority must assess that risk before deciding on the surrender of the individual concerned.

Where such a risk derives from the general detention conditions in the Member State concerned, the identification of that risk cannot, in itself, lead to the execution of the warrant being refused. It is necessary to demonstrate that there are substantial grounds for believing that the individual concerned will in fact be exposed to such a risk because of the conditions in which it is envisaged that he/she will be detained.

In order to be able to assess the existence of that risk in relation to the individual concerned, the authority responsible for the execution of the warrant must ask the issuing authority to provide, as a matter of urgency, all the information necessary on the conditions of detention.

If, in the light of the information provided or any other information available to it, the authority responsible for the execution of the warrant finds that there is, for the individual who is the subject of the warrant, a real risk of inhuman or degrading treatment, **the execution of the warrant must be deferred until there has been obtained additional information on the basis of which that risk can be discounted. If the existence of that risk cannot be discounted within a reasonable period, that authority must decide whether the surrender procedure should be brought to an end.**

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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 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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