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Judgment of the Court in Case C-481/23 | [Sangas] ¹

The Member State of residence of a requested person cannot refuse to execute a European arrest warrant in order to ensure that person's presence when the criminal proceedings are resumed

Nor can it refuse execution if the acts constituting the offence committed by the requested person do not fall within the jurisdiction of that Member State under its own criminal law

In 2022, the National High Court of Spain convicted a Spanish national residing in Romania as co-perpetrator of value added tax (VAT) fraud on the sale of hydrocarbons for a total amount of more than € 100 million. He was sentenced to a number of prison terms and heavy fines.

Following the announcement that the accused had lodged an appeal against his conviction before the Spanish Supreme Court, he was refused permission to travel to his country of residence. Despite that prohibition, the accused was found at the Croatian border heading towards Romania. The National High Court therefore issued, in April 2022, a European arrest warrant to find, arrest and detain the accused.

In April 2023, a Romanian court refused to execute that arrest warrant. It found that the accused, who had provided documentary evidence of continuous and lawful residence in the territory of Romania, did not wish to be surrendered to the Spanish judicial authorities. Furthermore, the criminal proceedings were time-barred under Romanian law.

The National High Court considers that the conditions for relying on those grounds for optional non-execution of that warrant have not been satisfied. It has therefore asked the Court of Justice to interpret the Framework Decision on the European Arrest Warrant. ²

In its judgment, **the Court of Justice confirms the view taken by the National High Court.**

According to the Framework Decision, **the judicial authority of the executing Member State** may refuse to execute a European arrest warrant if it has been issued for the purposes of **execution of a custodial sentence or detention order**. **However**, for that to be possible, **the requested person must reside in the executing Member State** and that State must **undertake to execute** that sentence or detention order in accordance with its domestic law.

In the case under consideration, **the arrest warrant was not issued for those purposes**. Rather, it was issued in order to **ensure the presence of the accused** when the proceedings which are pending before the Spanish courts were resumed.

As regards **the fact that criminal proceedings were statute-barred under Romanian law**, the Court notes that, in order to be able to rely on that ground for refusal, **the acts must fall within the jurisdiction of the executing Member State** under its own criminal law, **which does not appear to be the case here**. The National High Court

indicated that all the acts had been committed in Spain and constituted tax evasion offences affecting the economic interests of that Member State.

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 an EU 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, as the case may be, an abstract](#) of the judgment is 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.

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¹ The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

² [Council Framework Decision 2002/584/JHA](#) of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended by [Council Framework Decision 2009/299/JHA](#) of 26 February 2009.