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IL-QORTI TAL-ĠUSTIZZJA TAL-UNJONI EWROPEA  
HOF VAN JUSTITIE VAN DE EUROPESE UNIE  
TRYBUNAŁ SPRAWIEDLIWOŚCI UNII EUROPEJSKIEJ  
TRIBUNAL DE JUSTIÇA DA UNIÃO EUROPEIA  
CURTEA DE JUSTIȚIE A UNIUNII EUROPENE  
SÚDNY DVOR EURÓPSKEJ ÚNIE  
SODIŠČE EVROPSKE UNIJE  
EUROOPAN UNIONIN TUOMIOISTUIN  
EUROPEISKA UNIONENS DOMSTOL

## JUDGMENT OF THE COURT (Grand Chamber)

16 July 2015 \*

(Reference for a preliminary ruling — Urgent preliminary ruling procedure — Charter of Fundamental Rights of the European Union — Article 6 — Right to liberty and security — Police and judicial cooperation in criminal matters — Framework Decision 2002/584/JHA — European arrest warrant — Obligation to execute the European arrest warrant — Article 12 — Keeping the requested person in detention — Article 15 — Surrender decision — Article 17 — Time-limits and detailed procedure for the decision on execution — Consequences of a failure to observe the time-limits)

In Case C-237/15 PPU,

REQUEST for a preliminary ruling under Article 267 TFEU from the High Court (Ireland), made by decision of 19 May 2015, received at the Court on 22 May 2015, in the proceedings

**Minister for Justice and Equality**

v

**Francis Lanigan,**

THE COURT (Grand Chamber),

composed of V. Skouris, President, K. Lenaerts, Vice-President, A. Tizzano, R. Silva de Lapuerta, L. Bay Larsen (Rapporteur), A. Ó Caoimh, J.-C. Bonichot, C. Vajda, S. Rodin and K. Jürimäe, Presidents of Chambers, J. Malenovský, E. Levits, M. Safjan, A. Prechal and J.L. da Cruz Vilaça, Judges,

Advocate General: P. Cruz Villalón,

Registrar: M. Aleksejev, Administrator,

\* Language of the case: English.

having regard to the written procedure and further to the hearing on 1 July 2015,  
after considering the observations submitted on behalf of:

- Mr Lanigan, by K. Kelly, BL, M. Forde, SC, and P. O’Donovan, Solicitor,
- Ireland, by E. Creedon, acting as Agent, and R. Barron, SC, T. McGillicuddy, BL, and H. Dockry, Solicitor,
- the German Government, by T. Henze and J. Kemper, acting as Agents,
- the Spanish Government, by A. Rubio González, acting as Agent,
- the French Government, by F.-X. Bréchet, acting as Agent,
- the Netherlands Government, by J. Langer, acting as Agent,
- the United Kingdom Government, by V. Kaye, acting as Agent, and J. Holmes, Barrister,
- the European Commission, by R. Troosters and W. Bogensberger, acting as Agents,

after hearing the Advocate General,

gives the following

### **Judgment**

- 1 This request for a preliminary ruling concerns the interpretation of Articles 15 and 17 of 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) (‘the Framework Decision’).
- 2 The request has been made in the context of the execution, in Ireland, of a European arrest warrant issued on 17 December 2012 by the Magistrates’ Courts in Dungannon (United Kingdom) in respect of Mr Lanigan.

## Legal context

### *The European Convention for the Protection of Human Rights and Fundamental Freedoms*

- 3 Under the heading ‘Right to liberty and security’, Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 (‘the ECHR’), provides:

‘1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

...

- (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

...

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

...’

### *EU law*

- 4 Recitals 5 and 7 in the preamble to the Framework Decision are worded as follows:

‘(5) The objective set for the Union to become an area of freedom, security and justice leads to abolishing extradition between Member States and replacing it by a system of surrender between judicial authorities. Further, the introduction of a new simplified system of surrender of sentenced or suspected persons for the purposes of execution or prosecution of criminal sentences makes it possible to remove the complexity and potential for delay inherent in the present extradition procedures. Traditional cooperation relations which have prevailed up till now between Member States should be replaced by a system of free movement of judicial decisions in criminal matters, covering both pre-sentence and final decisions, within an area of freedom, security and justice.

...

- (7) Since the aim of replacing the system of multilateral extradition built upon the European Convention on Extradition of 13 December 1957 cannot be

sufficiently achieved by the Member States acting unilaterally and can therefore, by reason of its scale and effects, be better achieved at Union level, the Council may adopt measures in accordance with the principle of subsidiarity as referred to in Article 2 [EU] and Article 5 [EC]. In accordance with the principle of proportionality, as set out in the latter Article, this Framework Decision does not go beyond what is necessary in order to achieve that objective.’

- 5 Under the heading ‘Definition of the European arrest warrant and obligation to execute it’, Article 1 of the Framework Decision states:

‘1. The European arrest warrant is a judicial decision issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order.

2. Member States shall execute any European arrest warrant on the basis of the principle of mutual recognition and in accordance with the provisions of this Framework Decision.

3. This Framework Decision shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union.’

- 6 Articles 3, 4 and 4a of the Framework Decision set out the grounds for mandatory and optional non-execution of the European arrest warrant.

- 7 Under the heading ‘Keeping the person in detention’, Article 12 of the Framework Decision is worded as follows:

‘When a person is arrested on the basis of a European arrest warrant, the executing judicial authority shall take a decision on whether the requested person should remain in detention, in accordance with the law of the executing Member State. The person may be released provisionally at any time in conformity with the domestic law of the executing Member State, provided that the competent authority of the said Member State takes all the measures it deems necessary to prevent the person absconding.’

- 8 Article 15(1) of the Framework Decision provides that ‘the executing judicial authority is to decide, within the time-limits and in accordance with the conditions defined in the Framework Decision, whether the person is to be surrendered’.

- 9 Article 17 of the Framework Decision states:

‘1. A European arrest warrant shall be dealt with and executed as a matter of urgency.

2. In cases where the requested person consents to his surrender, the final decision on the execution of the European arrest warrant should be taken within a period of 10 days after consent has been given.

3. In other cases, the final decision on the execution of the European arrest warrant should be taken within a period of 60 days after the arrest of the requested person.

4. Where in specific cases the European arrest warrant cannot be executed within the time-limits laid down in paragraphs 2 or 3, the executing judicial authority shall immediately inform the issuing judicial authority thereof, giving the reasons for the delay. In such case, the time-limits may be extended by a further 30 days.

5. As long as the executing judicial authority has not taken a final decision on the European arrest warrant, it shall ensure that the material conditions necessary for effective surrender of the person remain fulfilled.

...

7. Where in exceptional circumstances a Member State cannot observe the time-limits provided for in this Article, it shall inform Eurojust, giving the reasons for the delay. In addition, a Member State which has experienced repeated delays on the part of another Member State in the execution of European arrest warrants shall inform the Council with a view to evaluating the implementation of this Framework Decision at Member State level.'

#### 10 Article 23 of the Framework Decision provides:

'1. The person requested shall be surrendered as soon as possible on a date agreed between the authorities concerned.

2. He or she shall be surrendered no later than 10 days after the final decision on the execution of the European arrest warrant.

3. If the surrender of the requested person within the period laid down in paragraph 2 is prevented by circumstances beyond the control of any of the Member States, the executing and issuing judicial authorities shall immediately contact each other and agree on a new surrender date. In that event, the surrender shall take place within 10 days of the new date thus agreed.

4. The surrender may exceptionally be temporarily postponed for serious humanitarian reasons, for example if there are substantial grounds for believing that it would manifestly endanger the requested person's life or health. The execution of the European arrest warrant shall take place as soon as these grounds have ceased to exist. The executing judicial authority shall immediately inform the

issuing judicial authority and agree on a new surrender date. In that event, the surrender shall take place within 10 days of the new date thus agreed.

5. Upon expiry of the time-limits referred to in paragraphs 2 to 4, if the person is still being held in custody he shall be released.’

11 Article 26(1) of the Framework Decision states:

‘The issuing Member State shall deduct all periods of detention arising from the execution of a European arrest warrant from the total period of detention to be served in the issuing Member State as a result of a custodial sentence or detention order being passed.’

*Irish law*

12 Section 13(5) of the European Arrest Warrant Act 2003, as amended, states:

‘A person arrested under a European arrest warrant shall, as soon as may be after his or her arrest, be brought before the High Court, and the High Court shall, if satisfied that that person is the person in respect of whom the European arrest warrant was issued:

- (a) remand the person in custody or on bail (and, for that purpose, the High Court shall have the same powers in relation to remand as it would have if the person were brought before it charged with an indictable offence),
- (b) fix a date for the purpose of section 16 (being a date that falls not later than 21 days after the date of the person’s arrest) ...’

13 Section 16(9) and (10) of that act is worded as follows:

‘(9) If the High Court has not, after the expiration of 60 days from the arrest of the person concerned under section 13 or 14, made an order under subsection (1) or (2) or subsection (1) or (2) of section 15, or has decided not to make an order under subsection (1) or (2), it shall direct the Central Authority in the State to inform the issuing judicial authority and, where appropriate, Eurojust in relation thereto and of the reasons therefor specified in the direction, and the Central Authority in the State shall comply with such direction.

(10) If the High Court has not, after the expiration of 90 days from the arrest of the person concerned under section 13 or 14, made an order under subsection (1) or (2) or subsection (1) or (2) of section 15, or has decided not to make an order under subsection (1) or (2), it shall direct the Central Authority in the State to inform the issuing judicial authority and, where appropriate, Eurojust in relation thereto and of the reason therefor specified in the direction, and the Central Authority in the State shall comply with such direction.’

**The dispute in the main proceedings and the questions referred for a preliminary ruling**

- 14 On 17 December 2012, the Magistrates' Courts in Dungannon issued a European arrest warrant in respect of the respondent in the main proceedings, regarding criminal proceedings brought against him for the alleged offences, committed in the United Kingdom on 31 May 1998, of murder and possession of a firearm with intent to endanger life.
- 15 On 7 January 2013, the High Court endorsed that European arrest warrant so as to enable the An Garda Síochána (national police) to arrest Mr Lanigan.
- 16 On 16 January 2013, Mr Lanigan was arrested on the basis of that European arrest warrant and brought before the High Court. Mr Lanigan informed that court that he did not consent to his surrender to the United Kingdom judicial authorities and was placed in custody awaiting a decision on his surrender to those authorities.
- 17 The High Court began its examination of Mr Lanigan's situation on 30 June 2014, following a series of adjournments resulting, in particular, from the procedural incidents described in the order for reference. The defendant in the main proceedings then raised new arguments which, in his view, militate against his surrender to the United Kingdom authorities. The assessment of the merits of those arguments justified, inter alia, a request being made to those authorities for additional information, with a view to establishing the credibility of Mr Lanigan's assertions that his surrender to the United Kingdom authorities could endanger his life.
- 18 Once the requested information had been received on 8 December 2014, Mr Lanigan made a bail application on 15 December 2014. The High Court granted that application and thus granted Mr Lanigan bail on certain terms. However, since those terms were not satisfied, Mr Lanigan remains in custody.
- 19 Moreover, Mr Lanigan also submitted, at the hearing on 15 December 2014 before the High Court, that the request for surrender should be rejected, since the time-limits stipulated in the Framework Decision had not been complied with.
- 20 In those circumstances, the High Court decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:  
  
    '(1) What is the effect of a failure to observe the time-limits stipulated in Article 17 of the Framework Decision ... read in conjunction with the provisions of Article 15 of the ... Framework Decision?  
  
    (2) Does failure to observe the time-limits stipulated in Article 17 of the Framework Decision ... give rise to rights on the part of an individual who has been held in custody pending a decision on his/her surrender for a period in excess of those time periods?'

### **The urgent procedure**

- 21 The High Court asked that this reference for a preliminary ruling be dealt with under the urgent procedure provided for in Article 107 of the Court's Rules of Procedure.
- 22 The referring court justified its request by pointing out that the defendant in the main proceedings has been held in custody since 16 January 2013 with a view to executing the European arrest warrant issued in relation to him.
- 23 In that respect, it must be observed, first, that this request for a preliminary ruling concerns the interpretation of the Framework Decision, which is within the field covered by Part Three, Title V, of the FEU Treaty, relating to the area of freedom, security and justice. It is therefore amenable to being dealt with under the urgent preliminary ruling procedure.
- 24 Secondly, it should be noted that Mr Lanigan is currently deprived of his liberty and that the question as to whether he may continue to be held in custody depends on the outcome of the dispute in the main proceedings.
- 25 In those circumstances, the Fourth Chamber of the Court decided, on 28 May 2015, on the proposal of the Judge-Rapporteur and after hearing the Advocate General, to grant the referring court's application for this request for a preliminary ruling to be dealt with under the urgent procedure and to refer the case to the Court for it to be assigned to the Grand Chamber.

### **Consideration of the questions referred**

- 26 By the questions it refers for a preliminary ruling, which it is appropriate to examine jointly, the national court asks, in essence, whether Articles 12, 15(1) and 17 of the Framework Decision must be interpreted as precluding, after expiry of the time-limits stipulated in Article 17 of the Framework Decision, the executing judicial authority, first, from adopting the decision on the execution of the European arrest warrant and, second, from keeping the requested person in custody, where the total duration of the period that person has spent in custody exceeds those time-limits.
- 27 It should be recalled, as a preliminary point, that the purpose of the Framework Decision, as is apparent in particular from Article 1(1) and (2) thereof and recitals 5 and 7 in the preamble thereto, is to replace the multilateral system of extradition between Member States with a system of surrender between judicial authorities of convicted or suspected persons for the purpose of enforcing judgments or of conducting prosecutions, that system of surrender being based on the principle of mutual recognition (judgments in *Melloni*, C-399/11, EU:C:2013:107, paragraph 36, and *F.*, C-168/13 PPU, EU:C:2013:358, paragraph 34).



- 28 The Framework Decision thus seeks, by the establishment of a new simplified and more effective system for the surrender of persons convicted or suspected of having infringed criminal law, to facilitate and accelerate judicial cooperation with a view to contributing to the objective set for the European Union to become an area of freedom, security and justice, founded on the high level of confidence which should exist between the Member States (judgments in *Melloni*, C-399/11, EU:C:2013:107, paragraph 37, and *F.*, C-168/13 PPU, EU:C:2013:358, paragraph 35).
- 29 That objective of accelerating judicial cooperation is present in various aspects of the Framework Decision, inter alia in the treatment of the time-limits for adopting decisions relating to a European arrest warrant (judgment in *F.*, C-168/13 PPU, EU:C:2013:358, paragraph 58).
- 30 It should be pointed out, in that regard, that Article 15(1) of the Framework Decision provides, as a general rule, that the executing judicial authority is to decide ‘within the time-limits and under the conditions defined in this Framework Decision’ whether the requested person is to be surrendered.
- 31 As regards, in particular, the adoption of the decision on the execution of the European arrest warrant, Article 17(1) of the Framework Decision provides that such a warrant is to ‘be dealt with and executed as a matter of urgency’. Article 17(2) and (3) stipulates precise time-limits within which the final decision on the execution of a European arrest warrant is to be taken, and Article 17(4) authorises the extension of those time-limits, within which that decision should be taken.
- 32 It follows from the Court’s case-law that Articles 15 and 17 of the Framework Decision must be interpreted as requiring the final decision on the execution of the European arrest warrant to be taken, in principle, within those time-limits, the importance of which is, moreover, expressed in a number of provisions of the Framework Decision (see, to that effect, judgment in *F.*, C-168/13 PPU, EU:C:2013:358, paragraphs 62 and 64).
- 33 It is apparent from the foregoing that the executing Member State is required to comply with the time-limits stipulated in Article 17. It is thus necessary, in order to provide an answer to the questions referred, to assess whether the adoption of the decision on the execution of the European arrest warrant, on the one hand, and the holding of the requested person in custody on the basis of that warrant, on the other, remain possible where that Member State has failed to comply with the obligation to adopt a final decision on the execution of that arrest warrant within the time-limits prescribed.

*The adoption of the decision on the execution of the European arrest warrant*

- 34 Although Article 15(1) of the Framework Decision clearly provides that the executing judicial authority is to decide within the time-limits stipulated in the

Framework Decision on whether to surrender the person concerned, the wording of that provision is not sufficient to determine whether a European arrest warrant must still be executed once those time-limits have expired and, in particular, whether the executing judicial authority is required to adopt the decision on the execution of the European arrest warrant once the time-limits stipulated in Article 17 of the Framework Decision have expired.

- 35 It should be noted, in that regard, that, according to the Court's settled case-law, in interpreting a provision of EU law, it is necessary to consider not only its wording but also the context in which it occurs and the objectives pursued by the rules of which it is part (judgments in *Maatschap L.A. en D.A.B. Langestraat en P. Langestraat-Troost*, C-11/12, EU:C:2012:808, paragraph 27, and *Koushkaki*, C-84/12, EU:C:2013:862, paragraph 34 and the case-law cited).
- 36 As regards the context of which Article 15(1) of the Framework Decision forms part, it follows from settled case-law of the Court that the principle of mutual recognition, which is the 'cornerstone' of judicial cooperation, means that, pursuant to Article 1(2) of the Framework Decision, Member States are in principle obliged to give effect to a European arrest warrant. They may refuse to execute such a warrant only in the cases of non-execution provided for in Articles 3, 4 and 4a of the Framework Decision and they may make its execution subject only to the conditions defined in Article 5 thereof (see, to that effect, judgments in *West*, C-192/12 PPU, EU:C:2012:404, paragraph 55; *Melloni*, C-399/11, EU:C:2013:107, paragraph 38; and *F.*, C-168/13 PPU, EU:C:2013:358, paragraph 36).
- 37 Therefore, in the light, first, of the central function of the obligation to execute the European arrest warrant in the system put in place by the Framework Decision and, second, of the absence of any explicit indication therein as to a limitation of the temporal validity of that obligation, the rule set out in Article 15(1) of the Framework Decision cannot be interpreted as meaning that, once the time-limits stipulated in Article 17 of the Framework Decision have expired, the executing judicial authority is no longer able to adopt the decision on the execution of the European arrest warrant or that the executing Member State is no longer required to carry out the execution procedure in that regard.
- 38 That interpretation is corroborated by the fact that the EU legislature expressly envisaged, in Article 17(7) of the Framework Decision, the situation in which a Member State finds itself unable to observe the time-limits stipulated in Article 17, without providing that the executing judicial authority would thus no longer be able to adopt the decision on the execution of the European arrest warrant or that the obligation to carry out the execution procedure of the European arrest warrant would, in that case, be removed. Article 17(7) of the Framework Decision refers, moreover, to the occurrence of repeated 'delays ... in the execution', which shows, therefore, that the EU legislature considered that, in a

situation in which those time-limits have not been observed, the execution of the European arrest warrant is postponed, not abandoned.

- 39 Moreover, an interpretation of Article 15(1) of the Framework Decision to the contrary would not be coherent with Article 17(5) thereof. The latter provision states that the executing judicial authority must ensure that the material conditions necessary for effective surrender of the person remain fulfilled until a final decision on the execution of the European arrest warrant has been adopted, without limiting the validity of that obligation in time and, in particular, without providing that that obligation ceases to exist once the time-limits stipulated in Article 17 of the Framework Decision have expired. The persistence of such an obligation in that situation makes sense only if the executing judicial authority remains required to adopt the decision on the execution of the European arrest warrant after those time-limits have expired.
- 40 Furthermore, an interpretation of Article 15(1) of the Framework Decision to the effect that the executing judicial authority should no longer adopt the decision on the execution of the European arrest warrant after those time-limits have expired would run counter to the objective pursued by the Framework Decision of accelerating and simplifying judicial cooperation, since such an interpretation could, in particular, force the issuing Member State to issue a second European arrest warrant in order to enable a new surrender procedure to take place within the time-limits stipulated in the Framework Decision.
- 41 Thus, by preventing the effect of European arrest warrants from being weakened and delays in the execution of those warrants from leading to more complex procedures, the interpretation of Articles 15 and 17 of the Framework Decision to the effect that the decision on the execution of the European arrest warrant may still be adopted once the time-limits stipulated in Article 17 have expired only facilitates the surrender of requested persons, in accordance with the principle of mutual recognition set out in Article 1(2) of the Framework Decision, which constitutes the essential rule introduced by that decision (see, by analogy, judgments in *Wolzenburg*, C-123/08, EU:C:2009:616, paragraph 59, and *West*, C-192/12 PPU, EU:C:2012:404, paragraph 62). Moreover, an interpretation contrary to Articles 15 and 17 of the Framework Decision would be liable to encourage delaying tactics aimed at obstructing the execution of European arrest warrants.
- 42 It follows from the foregoing that the mere expiry of the time-limits stipulated in Article 17 of the Framework Decision cannot relieve the executing Member State of its obligation to carry out the execution procedure of a European arrest warrant and to adopt the decision on the execution thereof.

*The holding of the requested person in custody*

- 43 Pursuant to Article 12 of the Framework Decision, the executing judicial authority is to take a decision on whether a person arrested on the basis of a European arrest warrant should remain in detention, in accordance with the law of the executing Member State. That article also states that that person may be released provisionally at any time in conformity with the domestic law of the executing Member State, provided that the competent authority of the said Member State takes all the measures it deems necessary to prevent the person absconding.
- 44 It should be noted that that article does not provide, in a general manner, that the holding of the requested person in custody is envisageable only within the temporal limits specified nor, in particular, that such a possibility is to be ruled out after expiry of the time-limits stipulated in Article 17 of the Framework Decision.
- 45 Similarly, although Article 12 of the Framework Decision allows for the possibility, under certain conditions, to release provisionally the person arrested on the basis of a European arrest warrant, it does not provide that, following the expiry of the time-limits stipulated in Article 17 of the Framework Decision, the executing judicial authority is required to release that person provisionally or, *a fortiori*, to release him purely and simply.
- 46 It should be pointed out, in that regard, that no other provision of the Framework Decision lays down any such obligation.
- 47 In particular, unlike Article 23(5) of the Framework Decision which provides that, upon expiry of the time-limits for the surrender of the requested person following the adoption of the decision on the execution of the European arrest warrant, that person is to be released if he is still being held in custody, Article 17 of the Framework Decision does not establish any relationship between the release of that person and the expiry of the time-limits for adopting that decision.
- 48 In that regard, Article 17(2) and (3) of the Framework Decision provides that the decision on the execution of the European arrest warrant ‘should be taken’ within the time-limits stipulated, and Article 17(4) provides that those time-limits ‘may be extended’, whereas Article 23(5) of the Framework Decision states, in a more affirmative manner, that the requested person ‘shall be released’ if he is still being held in custody upon expiry of the time-limits referred to in that article.
- 49 In so far as concerns that difference between the consequences provided for by the EU legislature pertaining to the expiry of the time-limits laid down in Articles 17 and 23 of the Framework Decision, it may also be observed that the Commission’s proposal which led to the adoption of the Framework Decision (COM(2001) 522 final) provided, by contrast, that the requested person must be released both upon expiry of the time-limits for the adoption of the decision on the execution of the European arrest warrant and upon expiry of the time-limits for surrender.

- 50 Moreover, in so far as it results from the considerations set out in paragraphs 34 to 42 above that the execution procedure for the European arrest warrant must continue also after expiry of the time-limits stipulated in Article 17 of the Framework Decision, a general and unconditional obligation to release the requested person provisionally or, *a fortiori*, to release that person purely and simply upon expiry of those time-limits or where the total duration of the period that person has spent in custody exceeds those 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.
- 51 Finally, it should be pointed out that Article 26(1) of the Framework Decision provides that the issuing Member State is to deduct all periods of detention arising from the execution of a European arrest warrant from the total period of detention to be served in that State, thereby ensuring that all periods of detention, even those resulting from possibly being held in custody after the time-limits stipulated in Article 17 of the Framework Decision have expired, will duly be taken into account if a custodial sentence is executed in the issuing Member State.
- 52 It follows that Article 12 of the Framework Decision, read in conjunction with Article 17 thereof, must be interpreted as not precluding, in principle, the executing judicial authority from holding the requested person in custody, in accordance with the law of the executing Member State, after the time-limits stipulated in Article 17 of the Framework Decision have expired, even if the total duration for which that person has been held in custody exceeds those time-limits.
- 53 However, Article 1(3) of the Framework Decision expressly states that the decision is not to have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 EU and reflected in the Charter of Fundamental Rights of the European Union ('the Charter'), an obligation which moreover concerns all the Member States, in particular both the issuing and the executing Member States (see, to that effect, judgment in *F.*, *C-168/13 PPU*, EU:C:2013:358, paragraphs 40 and 41).
- 54 Article 12 of the Framework Decision must, therefore, be interpreted in conformity with Article 6 of the Charter, which provides that everyone has the right to liberty and security of person.
- 55 Article 52(1) of the Charter accepts that limitations may be imposed on the exercise of rights such as those set forth in Article 6 of the Charter, as long as the limitations are provided for by law, respect the essence of those rights and freedoms and, subject to the principle of proportionality, are necessary and genuinely meet objectives of general interest recognised by the European Union or the need to protect the rights and freedoms of others (see, to that effect, judgment in *Volker und Markus Schecke and Eifert*, *C-92/09* and *C-93/09*, EU:C:2010:662, paragraph 50).

- 56 Moreover, according to Article 52(3) of the Charter, in so far as it contains rights which correspond to rights guaranteed by the ECHR, the meaning and scope of those rights are to be the same as those laid down by the Convention. Article 53 of the Charter further states that nothing in the Charter is to be interpreted as restricting or adversely affecting the rights recognised *inter alia* by the ECHR (judgment in *Volker und Markus Schecke and Eifert*, C-92/09 and C-93/09, EU:C:2010:662, paragraph 51).
- 57 According to the case-law of the European Court of Human Rights on Article 5(1)(f) of the ECHR on extradition procedures, only the conduct of such a procedure justifies the deprivation of a freedom based on that article and, consequently, if the procedure is not carried out with due diligence, the detention ceases to be justified (see, *inter alia*, *Quinn v. France*, 22 March 1995, § 48, Series A no. 311, and *Gallardo Sanchez v. Italy*, no. 11620/07, § 40, ECHR 2015).
- 58 Therefore, given that the issuing of a European arrest warrant cannot, as such, justify the holding of the requested person for a period the total duration of which exceeds the time necessary to execute that warrant, the executing judicial authority may decide to hold that person in custody, in accordance with Article 6 of the Charter, only in so far as the procedure for the execution of the European arrest warrant has been carried out in a sufficiently diligent manner and in so far as, consequently, the duration of the custody is not excessive.
- 59 In order to ensure that that is indeed the case, the executing judicial authority 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 and any contribution of the requested person to that duration. The sentence potentially faced by the requested person or delivered in his regard in relation to the acts which justified the issuing of the European arrest warrant in his respect, together with the potential risk of that person absconding, must also be taken into consideration.
- 60 Against that background, 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 Article 17 of the Framework Decision is also relevant, in so far as those time-limits are, in principle, sufficient, in the light, *inter alia*, of the essential role of the principle of mutual recognition in the system put in place by the Framework Decision, for the executing judicial authority to carry out checks prior to the execution of the European arrest warrant and to adopt the decision on the execution of such a warrant.
- 61 In any event, if the executing judicial authority concludes, following the review referred to in paragraphs 58 to 60 above, that it is required to bring the requested person's custody to an end, it is then required, pursuant to Articles 12 and 17(5) of 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 effective surrender remain fulfilled for as long as no final decision on the execution of the European arrest warrant has been taken.

- 62 In the light of the foregoing, the questions referred are to be answered as follows: First, Articles 15(1) and 17 of the Framework Decision must be interpreted as meaning that the executing judicial authority remains required to adopt the decision on the execution of the European arrest warrant after expiry of the time-limits stipulated in Article 17.
- 63 Second, Article 12 of the Framework Decision, read in conjunction with Article 17 thereof and in the light of Article 6 of the Charter, must be interpreted as not precluding, in such a situation, the holding of the requested person in custody, in accordance with the law of the executing Member State, even if the total duration for which that person has been held in custody exceeds those time-limits, provided that that duration is not excessive in the light of the characteristics of the procedure followed in the case in the main proceedings, which is a matter to be ascertained by the national court. If the executing judicial authority decides to bring the requested person's custody to an end, that authority is required 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 effective surrender remain fulfilled for as long as no final decision on the execution of the European arrest warrant has been taken.

### **Costs**

- 64 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Grand Chamber) hereby rules:

**Articles 15(1) and 17 of 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, must be interpreted as meaning that the executing judicial authority remains required to adopt the decision on the execution of the European arrest warrant after expiry of the time-limits stipulated in Article 17.**

**Article 12 of that Framework Decision, read in conjunction with Article 17 thereof and in the light of Article 6 of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding, in such a**

**situation, the holding of the requested person in custody, in accordance with the law of the executing Member State, even if the total duration for which that person has been held in custody exceeds those time-limits, provided that that duration is not excessive in the light of the characteristics of the procedure followed in the case in the main proceedings, which is a matter to be ascertained by the national court. If the executing judicial authority decides to bring the requested person's custody to an end, that authority is required 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 effective surrender remain fulfilled for as long as no final decision on the execution of the European arrest warrant has been taken.**

[Signatures]