



Court of Justice of the European Union

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Judgments in Joined Cases C-566/19 PPU

Parquet général du Grand-Duché de Luxembourg and C-626/19 PPU

Openbaar Ministerie, and in Cases C-625/19 PPU and C-627/19 PPU

Openbaar Ministerie

Press and Information

The Court finds that the French, Swedish and Belgian public prosecutor's offices satisfy the requirements for issuing a European arrest warrant, and clarifies the scope of the judicial protection afforded to persons referred to in such warrants

In the judgments in *Parquet général du Grand-Duché de Luxembourg and Openbaar Ministerie (Public Prosecutors of Lyon and Tours)* (C-566/19 PPU and C-626/19 PPU), *Openbaar Ministerie (Swedish Prosecution Authority)* (C-625/19 PPU) and *Openbaar Ministerie (Public Prosecutor in Brussels)* (C-627/19 PPU), delivered on 12 December 2019 in an urgent procedure, the Court has supplemented its recent case-law¹ on Framework Decision 2002/584 on the European arrest warrant,² providing guidance on the requirement of the independence of the 'issuing judicial authority' in the case of a European arrest warrant, and on the requirement of effective judicial protection, which must be afforded to persons subject to such an arrest warrant.

In the main proceedings, European arrest warrants had been issued by the French Public Prosecutor's Office (Cases C-566/19 PPU and C-626/19 PPU), the Swedish Prosecution Authority (Case C-625/19 PPU) and the Belgian Public Prosecutor's Office (Case C-627/19 PPU), for the purposes, in the first three cases, of conducting a criminal prosecution and, in the fourth case, of executing a custodial sentence. The question of the execution of those warrants arose, which depended, in particular, on the capacity of the respective public prosecutor's offices as 'issuing judicial authority'.

First of all, the Court considered whether the status of the French public prosecutor's office afforded it a sufficient guarantee of independence for the issuing of European arrest warrants, and ruled that that was the case.

In reaching that conclusion, the Court first recalled that the concept of 'issuing judicial authority' is capable of including authorities of a Member State which, although not necessarily judges or courts, participate in the administration of criminal justice and act independently. The latter condition presupposes the existence of statutory rules and an institutional framework capable of guaranteeing that the authorities concerned are not exposed, when issuing a European arrest warrant, to any risk of being subject to directions or instructions in a specific case from the executive.

In the case of judges attached to the French public prosecutor's office, according to the Court, the information provided is sufficient to show that they have the power to make an independent assessment, notably in comparison with the executive, of the necessity of issuing an European arrest warrant and its proportionality, and that they exercise that power objectively, taking into account all incriminatory and exculpatory evidence. Their independence is not called into question

¹ See, in particular, judgments of 27 May 2019, *OG and PI (Public Prosecutor's Offices in Lübeck and Zwickau)* (C-508/18 and C-82/19 PPU), of 27 May 2019, *PF (Prosecutor General of Lithuania)* (C-509/18) (see Press Release No. 68/19), and of 9 October 2019, *NJ (Public Prosecutor's Office in Vienna)* (C-489/19 PPU).

² Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States – Statements made by certain Member States on the adoption of the Framework Decision (OJ 2002 L 190, p. 1).

by the fact that they are responsible for conducting criminal prosecutions, nor by the fact that the Minister for Justice may issue them with general criminal justice policy instructions, nor by the fact that they are under the direction and control of their hierarchical superiors, themselves part of the public prosecutor's office, and thus obliged to comply with the instructions of those hierarchical superiors.

Secondly, the Court clarified the requirement laid down in the recent case-law according to which the decision to issue a European arrest warrant must, when it is taken by an authority which is not a court but participates in the administration of justice, be capable of being the subject, in the issuing Member State, of court proceedings that meet the requirements of effective judicial protection.

In the first place, the Court pointed out that the existence of such court proceedings is not a condition for classification of the authority as an issuing judicial authority.

In the second place, the Court stated that it is for the Member States to ensure that their legal orders effectively safeguard the requisite level of judicial protection by means of the procedural rules that they implement and which may vary from one system to another. Introducing a separate right of appeal against the decision to issue a European arrest warrant is just one possibility. Thus, the Court held that the requirements inherent in effective judicial protection, which must be afforded to a person referred to in a European arrest warrant issued by an authority other than a court for the purposes of conducting a criminal prosecution, are satisfied where the conditions for the issuing of that warrant, and in particular its proportionality, are subject to judicial review in the issuing Member State.

In the present case, the French and Swedish systems satisfy those requirements, since national procedural rules allow for the proportionality of the decision of the public prosecutor's office to issue a European arrest warrant to be judicially reviewed before, or practically at the same time as, that decision is adopted, but also subsequently. In particular, such an assessment is also made in advance by the court adopting the national decision that may subsequently constitute the basis of the European arrest warrant.

Where the European arrest warrant was issued by the public prosecutor's office not for the purposes of conducting a criminal prosecution but for the purposes of executing a custodial sentence imposed by a final judgment, the Court found that the requirements of effective judicial protection also do not mean that there must be provision for a separate appeal against the public prosecutor's decision. The Belgian system, which does not provide for such an appeal, therefore also satisfies those requirements. In that regard, the Court stated that, where the European arrest warrant is issued with a view to executing a custodial sentence, the judicial review is carried out by the enforceable judgment on which that arrest warrant is based. The executing judicial authority can presume that the decision to issue such an arrest warrant resulted from judicial proceedings in which the requested person had the benefit of safeguards in respect of the protection of his or her fundamental rights. Furthermore, the proportionality of that arrest warrant also follows from the sentence imposed, since the framework decision on the European arrest warrant provides that that sentence must be a custodial sentence or a detention order made for a period of at least four months.

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 judgments [C-566/19 PPU](#) and [C-626/19 PPU](#), [C-625/19 PPU](#) and [C-627/19 PPU](#) are published on the CURIA website on the day of delivery.

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