

Sweden, Solna District Court, Decision of 3 May 2016, B 2768-16

Deciding bodies and decisions

Solna District Court, Decision of 3 May 2016, B 2768-16

Solna Tingsrätt beslut den 3 maj 2016 i mål B 2768-16

Area of law

Criminal Law

Subject matter

European Arrest Warrant - Criminal procedure - Whether extradition to Romania was in breach of Article 3 of the ECHR

Summary Facts Of The Case

A person was convicted of a crime in Romania. He was arrested in Sweden with regard to the European Arrest Warrant. The Swedish court was to decide whether surrender was a breach of the ECHR.

The court referred to the judgments of Aranyosi and Caldararu, stating that to refuse extradition with regard to article 4 of the charter and article 3 of the ECHR, there has to be a real danger of a breach of basic human rights and that it is up to the executing member state to search for information from the issuing member state, to make sure that there is no such risk. The Swedish court finds that there are several cases from the European Court of Human Rights where the court has found that there have been breaches of article 3 of the ECHR in Romanian prisons. According to the Swedish court, there were good reasons to believe that anyone serving time in a Romanian prison faces the risk of being exposed to treatment that would be in breach of article 3 of the ECHR. Therefore, the extradition is refused. The court also considered a conditional extradition, if Romania could provide binding guarantees that Article 3 would not be overridden. Such a solution, however, was considered not compatible with the EU Court of Justice judgment C-399/11, Melloni.

Relation to the scope of the Charter

Article 4 EU Charter - Prohibition of torture and inhuman or degrading treatment or punishment

Relation between the Charter and EHCR

Article 3 ECHR - Prohibition of torture and inhuman or degrading treatment or punishment

The Swedish court uses Article 3 of the ECHR rather than Article 4 of the EU Charter.

Sources - EU and national law

EU Law

Framework Decision 2002/584/EU on the European Arrest Warrant

National Law

Lagen (2003:1156) om överlämnande från Sverige enligt en europeisk arresteringsorder

Sources - ECHR

Article 3 ECHR - Prohibition of torture and inhuman or degrading treatment or punishment

Sources - CJEU Case Law

C-388/08, Leymann Pustarov

C-404/15 Aranyosi

C-659/15 Caldararu

C-399/11 Melloni

Sources - ECtHR Case Law

Several cases from the European Court of Human rights are taken into consideration when the Swedish court decides whether the conditions in the Romanian prisons are acceptable or not.
