

Czech Republic, Ústavní soud (Constitutional Court), III. ÚS 213/21, constitutional, 8. 2. 2022

Member State

 Czech Republic

Topic

Mutual trust

Sector

European Arrest Warrant

Deciding Court Original Language

Ústavní soud

Deciding Court English translation

Constitutional Court

Registration N

III. ÚS 213/21

Date Decision

08/02/2022

ECLI (if available)

ECLI:CZ:US:2022:3.US.213.21.1

National Follow Up Of (when relevant)

N/A

EU legal sources and CJEU jurisprudence

Art. 3, art. 4, art. 8(1)(c), art. 15(2) of the Framework Decision 2002/584/SVV

Judgement of the CJEU from 16. 6. 2005, C-105/03, Pupino, ECLI:EU:C:2005:386

Judgement of the CJEU from 11. 2. 2003, Joined cases C-187/01 and C-385/01, Gözütok and Brügge, ECLI:EU:C:2003:87

Judgement of the CJEU from 5. 4. 2016, Joined cases C-404/15 a C-659/15 PPU, Aranyosi and C?ld?raru, ECLI:EU:C:2016:198
Judgement of the CJEU from 25. 6. 2018, C-216/18, Minister for Justice and Equality (Deficiencies in the system of justice), ECLI:EU:C:2018:586
Judgement of the CJEU from 1. 6. 2016, C-241/15, Bob-Dogi, ECLI:EU:C:2016:385
Judgement of the CJEU from 10. 11. 2016, C-453/16 PPU, Özçelik, ECLI:EU:C:2016:860
Judgement of the CJEU from 13. 1. 2021, C-414/20 PPU, MM, ECLI:EU:C:2021:4

ECtHR Jurisprudence

N/A

Subject Matter

European Arrest Warrant – Mutual trust – Review of the European Arrest Warrant by the requested state – Existence of national equivalent

Legal issue(s)

To what extent should national courts review the validity of the European Arrest Warrant?

Request for expedited/PPU procedures

N/A

Interim Relief

N/A

National Law Sources

§ 94(1); § 205(5) of the Act no. 104/2013 Coll., on International Judicial Cooperation in Criminal Matters (zákon o mezinárodní justiční spolupráci ve v?cech trestních)

Facts of the case

The Prague Regional Court remanded a man in custody pending extradition to Italy on the basis of a European Arrest Warrant issued by a court in Bari, Italy. The charges related to the laundering of the proceeds of crime in which he was alleged to have participated as a member of an organised group. He unsuccessfully challenged the European Arrest Warrant on appeal. Finally, he filed a constitutional complaint.

Reasoning (role of the Charter or other EU, ECHR related legal basis)

The Constitutional Court first recalls the case-law of the Court of Justice and notes that the European Arrest Warrant is regarded as a key element of international judicial cooperation in the EU and is based on the principle of mutual trust between the Member States. This requires Member States to respect the judicial decisions of other EU States. The Court emphasises that the principle of mutual trust significantly limits, but does not completely exclude, the possibility of reviewing decisions of other Member States. The Framework Decision itself and the case-law of the Court of Justice on the protection of fundamental rights or the existence of a valid arrest warrant play an important role in this respect.

In the present case, the validity of the European Arrest Warrant was disputed. In general, it is important that a European Arrest Warrant is based on a national enforceable decision, an arrest warrant or a judicial decision having the same effect. If these conditions are not met, the European Arrest Warrant may be invalid. Moreover, the executing judicial authorities are obliged to consult the issuing State if they have doubts about the validity of the European Arrest Warrant. However, as the Constitutional Court recalls the case-law of the Court of Justice, refusal to execute must be exceptional.

Applying these general principles to the present case, the Constitutional Court concluded that the complaint against the arrest was not justified. The risk of a long prison sentence (12 years) justified the fear of escape. However, the ordinary courts showed too much deference to the foreign decision and refused to review it on the grounds of the high degree of trust between states. This is contrary to existing case law, as they should have taken into account the existence of an equivalent national decision. However, on the basis of the documents examined, the Constitutional Court found that such a decision did exist. Although the ordinary courts had erred, there were no grounds for annulment.

The Constitutional Court concluded that the European Arrest Warrant issued against the complainant was based on national grounds (a detention order), of which the complainant was certainly aware, since he had challenged it using the means provided by the Italian legal system. In this situation, having regard to the institution of mutual trust between the Member States of the European Union as a fundamental cornerstone of judicial cooperation in criminal matters, there was no reason why the Czech judicial authorities should not comply with the said European Arrest Warrant, nor was there any circumstance that would prevent the complainant from being placed in pre-extradition detention.

Relation of the case to the EU Charter

N/A

Relation between the EU Charter and ECHR

N/A

Use of Judicial Interaction technique(s)

consistent interpretation

Horizontal Judicial Interaction patterns (Internal – with other national courts, and external – with foreign courts)

There is no interaction with other (ordinary) national courts or any foreign courts.

Vertical Judicial Interaction patterns (Internal – with other superior national courts, and external – with European supranational courts)

The Constitutional Court relies extensively on the case law of the European Court of Justice, which it uses to interpret national law in the light of EU law and subsequent case law. The Constitutional Court also cites its own case law, mainly on procedural issues and to determine the status of EU law in the Czech legal system and the grounds for review by the Constitutional Court. There are also some decisions concerning the European Arrest Warrant.

Strategic use of judicial interaction technique (purpose aimed by the national court)

The Constitutional Court's intention was to provide the ordinary courts with the current case law on the European arrest warrant for ease of reference. Moreover, the appeal decision did not reflect any Court of Justice jurisprudence, so the Constitutional Court's decision remedies this.

Impact on Legislation / Policy

N/A

Notes on the national implementation of the preliminary ruling by the referring court

N/A

Did the national court quote case law of the CJEU/ECtHR (in particular cases not already referred to by the CJEU in its decision) or the Explanations?

N/A

Did the national court quote soft law instruments, such as GRECO Reports, Venice Commission, CEPEJ Reports, or CCEJ Reports?

No

Did the national court take into account national case law on fundamental rights?

Yes

If the court that issued the preliminary reference is not a last instance court, and the “follow up” was appealed before a higher court, include the information

N/A

Was there a consensus among national courts on how to implement the CJEU's preliminary ruling; and were there divergences between the judiciary and other state powers regarding the implementation of the preliminary ruling?

N/A

Impact on national case law from the same Member State or other Member States

N/A

Connected national caselaw / templates

N/A

Other

N/A

(Link to) full text

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