



Press and Information

Court of Justice of the European Union

**PRESS RELEASE No 69/13**

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Judgment in Case C-168/13 PPU  
Jeremy F. v Premier ministre

## **EU law does not prevent Member States from providing for an appeal suspending execution of a decision extending the effects of a European arrest warrant**

*EU law does, however, require that, in the case where the Member States choose to provide for such an appeal, the decision to extend should be taken within the time-limits provided for by EU law in cases concerning the European arrest warrant*

The Framework Decision on the European arrest warrant<sup>1</sup> is designed to simplify and speed up the surrender, between Member States, of persons sought for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order. Member States must, for that reason, comply with certain time-limits, in the knowledge that the final decision on the execution of a European arrest warrant must, in principle, be taken within a period of 60 days after the requested person has been arrested<sup>2</sup>.

In the present case, the Crown Court in Maidstone (United Kingdom) issued, on 25 September 2012, a European arrest warrant against Jeremy F., a British national, in connection with criminal proceedings brought against him on the basis of acts which had been committed in the United Kingdom and which, under English law, were liable to constitute the offence of child abduction, for which the maximum penalty is a custodial sentence of seven years.

Arrested in France on 28 September 2012, Mr F. expressly declared, before the Cour d'appel de Bordeaux (Bordeaux Court of Appeal), that he consented to his surrender to the judicial authorities of the United Kingdom but did not renounce the speciality rule, under which a person who has been the subject of an arrest warrant may not be prosecuted, sentenced or detained for any offence committed prior to his or her surrender other than that for which he or she was surrendered.

By judgment of 4 October 2012, the Chambre de l'instruction (Investigation Chamber) of the Cour d'appel de Bordeaux ordered Mr F. to be surrendered to the United Kingdom judicial authorities for the purposes of the criminal proceedings specified in the warrant. Mr F. was surrendered on 10 October 2012 and has been in prison in the United Kingdom since that time.

On 22 October 2012, the Procureur général (chief prosecutor) before the Cour d'appel de Bordeaux received a request from the judicial authorities in the United Kingdom seeking the consent of the investigation chamber of the French court for the purposes of prosecuting Mr F. in respect of acts committed in the United Kingdom prior to his surrender which were liable to constitute an offence other than that which had formed the basis of that surrender. Following a hearing held on 18 December 2012, the Chambre de l'instruction of the Cour d'appel de Bordeaux decided, by a judgment of 15 January 2013, to grant its consent to the request that the surrender be extended for the purpose of bringing new proceedings against Mr F. on charges of sexual activity with a female minor aged 16 years which had taken place during the period from 1 July 2012 to 20 September 2012.

<sup>1</sup> 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).

<sup>2</sup> Article 17(3) of Framework Decision 2002/584/JHA.

Following an appeal brought by Mr F. before the Cour de cassation (Court of Cassation) against the judgment of 15 January 2013, the Cour de cassation referred to the Conseil constitutionnel (Constitutional Council) a priority question of constitutionality (QPC) in respect of French law<sup>3</sup>. The French Code of Criminal Procedure provides that, after a person has been surrendered to another Member State on the basis of a European arrest warrant, the Chambre de l'instruction must give its ruling within 30 days, 'not subject to appeal', inter alia in respect of an application to extend the effects of that warrant to cover other offences. At issue is the question whether the Framework Decision permits such an absence of judicial redress against the decision of the Chambre de l'instruction. The question put to the Conseil constitutionnel was whether, by providing that the Chambre de l'instruction was to give a ruling that was 'not subject to appeal', the French law of criminal procedure was, or was not, infringing the right to an effective judicial remedy and the principle of equality before the courts. If, however, the Framework Decision were to be construed as precluding, on some other basis, the possibility of such an appeal, on the ground, for example, that the introduction of such an appeal would have been incompatible with the mandatory time-limits laid down by the Framework Decision, the Conseil constitutionnel would have been led to give precedence to EU law and to not recognise a possible right of action resulting from the principles of constitutional rank in France. In so doing, the decision of the French Conseil constitutionnel would be in accordance with the case-law of the Court of Justice set out in the judgment in *Melloni*<sup>4</sup>.

It is in this context that the Conseil constitutionnel decided, for the first time in its existence, to refer a question to the Court of Justice for a preliminary ruling.

At the request of the Conseil constitutionnel, the Court decided that this case would be examined under the urgent procedure<sup>5</sup> by reason, in particular, of the deprivation of liberty to which Mr F. is subject.

In its judgment delivered today, the Court replies, first, that the **Framework Decision does not regulate the possibility for Member States to provide for an appeal suspending execution of decisions relating to the European arrest warrant**. However, such an absence of regulation does not mean that the Framework Decision prevents Member States from providing for such an appeal or that it requires them to introduce such an appeal.

In this regard, the Court points out that the Framework Decision, in itself, already provides for a procedure in compliance with the requirements of the Charter relating to the right to an effective remedy and to a fair trial<sup>6</sup>, independently of the detailed arrangements chosen by the Member States for the purpose of giving effect to the Framework Decision.

Thus, decisions relating to the execution of the European arrest warrant must be amenable to adequate controls, with the entire procedure of surrender between Member States being conducted subject to judicial review and in compliance with fundamental rights and fundamental legal principles – such as those safeguarded by EU law and reflected in the Charter of Fundamental Rights of the EU. The Court further points out that, even within the context of substantive criminal proceedings, which remain outside EU law, the Member States continue to be subject to the obligation to comply with the fundamental rights as laid down by the ECHR or by their national law, as such an obligation reinforces the degree of mutual trust between those States and the principle of mutual recognition on which the arrest warrant system is founded.

The Court points out, secondly, that, while the Framework Decision does not regulate the possible right to an appeal suspending decisions which relate to the European arrest warrant, **certain limits must, none the less, be imposed on the discretion which Member States have** in that regard.

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<sup>3</sup> Article 695-46 of the French Code of Criminal Procedure.

<sup>4</sup> Case [C-399/11 Melloni](#); see also Press Release No [17/13](#).

<sup>5</sup> This case will have been examined by the Court in less than two months.

<sup>6</sup> Charter of Fundamental Rights of the European Union (Article 47).

Thus, the objective of speeding up judicial cooperation is present in several aspects of the Framework Decision, particularly in the treatment of the time-limits within which decisions relating to the arrest warrant have to be adopted.

In view of the importance of those time-limits, it follows that a final decision on the execution of a warrant must, in principle, be taken within a period of 10 days after consent to the surrender of the requested person has been given, or, in other cases, within 60 days after the arrest of that requested person. It is only in specific cases that those periods may be extended by a further 30 days, while it is solely in exceptional circumstances that the time-limits need not be observed.

The Court points out that a decision to extend the warrant or to surrender the person to a subsequent Member State must, in principle, be taken no later than 30 days after receipt of the request, in accordance with the Framework Decision<sup>7</sup>. However, if an appeal having suspensory effect is provided for by national law against that decision, that appeal must comply with the abovementioned time-limits laid down for the adoption of a final decision on the execution of the warrant.

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**NOTE:** A request 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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<sup>7</sup> Articles 27(4) and 28(3)(c) of Framework Decision 2002/584/JHA.