

C-479/21 PPU - *Governor of Cloverhill Prison and Others*

**A case study on the
European Arrest Warrant
and Brexit**



Funded by European Union's
Justice Programme (2021-2027)



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The Facts

Two European arrest warrants are issued by the British
judicial authorities seeking the surrender of individuals:

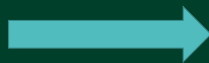
- SD for the purposes of executing a criminal penalty (EAW issued in March 2020)
- SN for the purposes of conducting a criminal prosecution (EAW issued in October 2020)



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The national and CJEU proceedings

- SD and SN challenge the legality of their detention
- The cases reach the Irish Supreme Court
- Questions are referred to the CJEU
- Application of the Urgent Preliminary Ruling Procedure (PPU)



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questions referred to the CJEU



Are the provisions of the **Withdrawal Agreement** which provide for the continuation of the EAW regime in respect of the UK during the transition period binding on Ireland?



Is the provision of the **Trade and Cooperation Agreement** which provides for the application of the surrender regime established by the TCA to EAWs issued before the end of the transition period in respect of persons not yet arrested for the purpose of the execution of those warrants before the end of that period?

... Or do these measures fall within the Area of Freedom, Security and Justice, meaning that (under Protocol No 21) they would not apply to Ireland as long as it has not expressly opted in?

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Main Lessons

- The Withdrawal Agreement is based on Art. 50 TEU, which pursues two objectives: first, enshrining the sovereign right of a Member State to withdraw from the European Union and, secondly, establishing a procedure to enable such a withdrawal to take place in an orderly fashion (para 49)
- The TCA is based on Art. 217 TFEU and pursues the objective of establishing the basis for a broad relationship between the EU and the UK (para 67)
- Neither the Withdrawal agreement nor the TCA are based on Treaty provisions relating to the AFSJ: therefore, Protocol 21 does not apply and Ireland is bound by them

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Conclusion

The provisions of the Withdrawal Agreement which provide for the continuation of the EAW regime in respect of the UK during the transition period and the provision of the TCA which provides for the application of the surrender regime established by that agreement to EAWs issued before the end of the transition period in respect of persons not yet arrested before the end of that period are binding on Ireland.

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