

Aranyosi and Căldăraru case law

A case study on the European Arrest
Warrant and fundamental rights



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**Joined Cases C-404/15 and C-659/15
PPU, *Aranyosi and Caldararu* (5 April
2016)**



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Instructions

Read through the case facts first and consider what you think the issue is from the scenario given

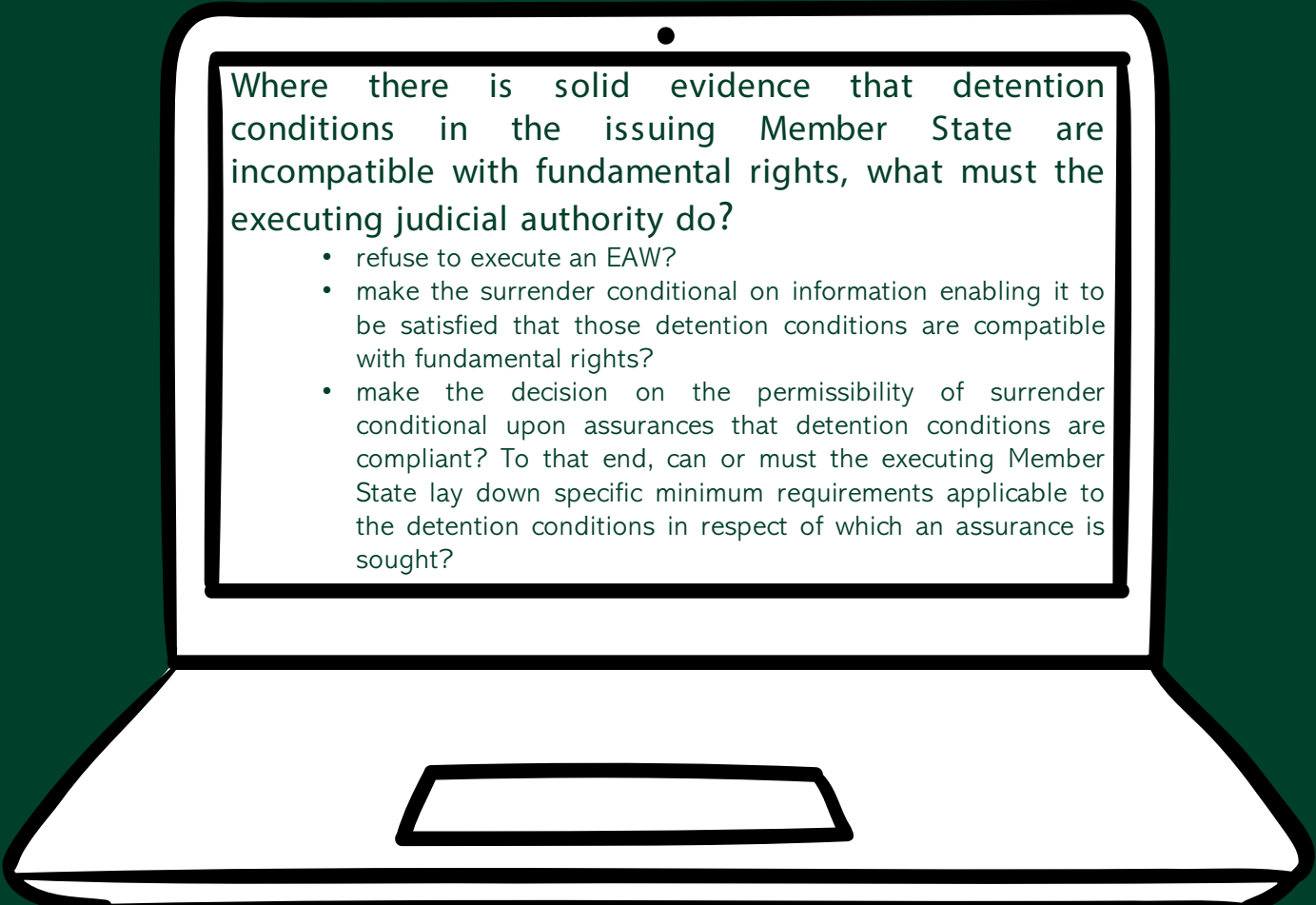
Then read through the question and attempt to answer it from your own understanding based on what you have learned so far.

Digest the answer and visit the case law to read it more in depth



Case Facts

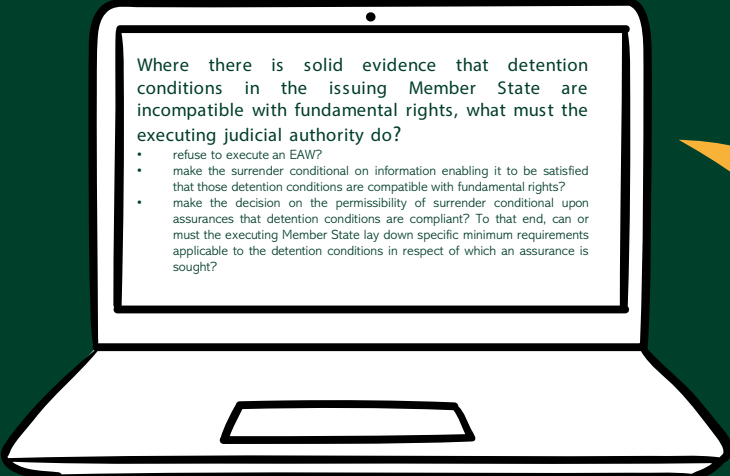
- Hungarian EAW for the purposes of prosecution (forced entry into a dwelling house and theft); Romanian EAW for sentence (driving without a licence)
- German authorities arrested the persons concerned, who did not consent to their surrender to the Hungarian authorities
- Specific evidence that the conditions of detention in Hungary/Romania do not satisfy the minimum standards required by international law (reports on prison overcrowding issued by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment)



Where there is solid evidence that detention conditions in the issuing Member State are incompatible with fundamental rights, what must the executing judicial authority do?

- refuse to execute an EAW?
- make the surrender conditional on information enabling it to be satisfied that those detention conditions are compatible with fundamental rights?
- make the decision on the permissibility of surrender conditional upon assurances that detention conditions are compliant? To that end, can or must the executing Member State lay down specific minimum requirements applicable to the detention conditions in respect of which an assurance is sought?

Question



Where there is solid evidence that detention conditions in the issuing Member State are incompatible with fundamental rights, what must the executing judicial authority do?

- refuse to execute an EAW?
- make the surrender conditional on information enabling it to be satisfied that those detention conditions are compatible with fundamental rights?
- make the decision on the permissibility of surrender conditional upon assurances that detention conditions are compliant? To that end, can or must the executing Member State lay down specific minimum requirements applicable to the detention conditions in respect of which an assurance is sought?

Apply the 'two-stage test'



Article 4 of the Charter of Fundamental Rights and Article 3 of ECHR enshrine **an absolute prohibition**. This is closely linked to Article 1 ECHR (respect for human dignity) → enshrine a fundamental value of the EU and the Member States

Article 3 of the ECHR imposes **a positive obligation** on the executing judicial authority to ensure that prisoners are detained in conditions which uphold the rights enshrined in the provision



The consequence of the execution of a EAW must not be that a person suffers inhuman or degrading treatment: where the judicial authority of the executing Member State is in possession of evidence of a real risk of inhuman or degrading treatment of individuals detained in the issuing Member State, that judicial authority is bound to assess the existence of that risk when it is called upon to decide on the surrender to the authorities of the issuing Member State of the individual sought by a EAW

Apply the 'two-stage test'



1

Systemic or generalised deficiencies

or which may affect certain groups of people, or which may affect certain places of detention;
and

2

Individualised real risk

the executing judicial authority must make a further assessment, **specific and precise**, of whether there are **substantial grounds** to believe that the individual concerned will run a **real risk** of being subject to inhuman and degrading treatment

Apply the 'two-stage test'



1

Systemic or generalised deficiencies

or which may affect certain groups of people, or which may affect certain places of detention;
and

Information may be obtained from

- Judgments of international courts such as the ECHR
- Judgments of courts of the issuing Member States
- Decisions, reports, and other documents produced by bodies of the Council of Europe or under the aegis of the United Nations

Apply the 'two-stage test'

2

Individualised real risk

the executing judicial authority must make a further assessment, **specific and precise**, of whether there are **substantial grounds** to believe that the individual concerned will run a real risk of being subject to inhuman and degrading treatment



Executing judicial authority



Issuing judicial authority

The executing judicial authority must request from the issuing Member State all necessary supplementary information on the conditions in which it is envisaged that the individual concerned will be detained in that Member State

Apply the 'two-stage test'



Time frame



Executing judicial authority

The executing judicial authority may fix a time limit for the receipt of the supplementary information requested from the judicial authority



The time limit must be adjusted to the particular case to allow the authority the time required to collect the info and where necessary seek assistance from the central authorities of the issuing MS

! The issuing judicial authority is obliged to provide that info to the executing judicial authority



