ML, C-220/18 PPU, 25 July 2018 and *Doronbantu* [GC], C-128/18, 15 October 2019

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Instructions

Review the *Aranyosi judgement* from Introductory Module 2

Then read through this judgment on *ML and Doronbantu* to digest the position by the CJEU on the role of the executing judicial authorities when assessing detention conditions

Use this to reflect on the challenges that can be encountered when using the EAW

Case Facts

German authorities received an EAW request by Romania for Mr. Doronbantu, a Romanian living in Hamburg, for the purpose of conducting a criminal prosecution.

In the context of the execution of the warrant, the Hamburg Court considered evidence of systemic or generalised deficiencies in the conditions of detention in Romania.

Questions were raised on whether an EAW should be refused on account of poor prison conditions of the issuing MS where the person concerned would be detained

Assessment Conditions

The CJEU confirmed its *Aranyosi* ruling and elaborated on step 2 of the *Aranyosi test* on how the individual assessment should be conducted.

Executing judicial authorities must assess conditions of detention only in those prisons is likely that the person concerned would be detained even on a temporary basis. The authorities must focus on the actual and precise conditions

The assessment is not limited to the review of obvious inadequacies but also relevant to review the physical aspects of the detention conditions

Personal space

Sanitation conditions

Freedom of movement

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Cannot rule a real risk just because the person concerned has a legal remedy allowing him to challenge the conditions of his/her detention or because the issuing MS has measures in place to monitor such conditions

Must consider information provided by the issuing MS authorities other than the issuing judicial authority

Executing judicial authority

Required to request information it deems necessary from the issuing judicial authority AND rely on their assurances in the absence of indications infringing article of the Charter

A found individual risk cannot be weighed against considerations on the efficacy of judicial cooperation, principles of mutual trust and recognition

Obligations of executing judicial authorities

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