

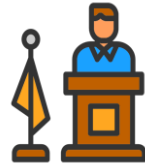
RECORDED DISCUSSION

ADVANCED MODULE 2

Puig Case

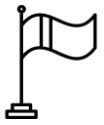
→ Facts of the case

Executing judicial authority refused the execution due to issuing authority's lack of jurisdiction



Breach of the presumption of innocence

Breach of the right to a fair trial



The case concerned the surrender of Mr. Puig Gordi to the Spanish judicial authorities by the Belgian judicial authorities



The Spanish Supreme Court asks the CJEU whether it may issue a new EAW against Mr. Gordi after the refusal of the execution

Puig Case

→ Grounds for refusal



Does the EAW FD allow the refusal on a ground regulated under domestic law?



Grounds for refusal

- Procedural requirements of the EAW
- Validity requirements
- Grounds for mandatory and optional non-execution
- Existence of a risk infringement of fundamental rights



No, domestic law of executing MS cannot establish new grounds for non-execution not foreseen in the EAW FD

Legal consequences

None



CJEU Notes that the Belgian domestic law allows refusal of EAW if:

There are serious reasons for believing execution will infringe **fundamental rights**



→ At risk of being tried by a court lacking jurisdiction leading to an infringement of the right to a fair trial in accordance with Art. 47 CFR



General rule based on the principle of mutual trust is to **assume all member states comply with EU law**, including fundamental rights

Two-step test

→ *Aranyosi* Judgment

1

Assessing whether there is objective, reliable, specific and properly updated information to demonstrate real risk of infringement

Executing judicial authority shall:

- Overall assessment to determine if the defendants are deprived of an effective legal remedy enabling them to challenge the lack of jurisdiction and request legal review
- Consider available legal remedies, legal practices of domestic courts, and national interpretations

2

Identifying to which extent the **generalised or systemic deficiencies** observed in the first step would “specifically and precisely” affect the defendant

Executing judicial authority shall:

- Consider the person’s personal situation, the nature of the offence for which he/she is prosecuted and the factual context in which that arrest warrant was issued

In the **Puig case**, the executing judicial authority relied on opinions of the WG on Arbitrary Detention and ECtHR case law

Two-step test

→ *Aranyosi* Judgment

1

Assessing whether there is objective, reliable, specific and properly updated information to demonstrate real risk of infringement

2

Identifying to which extent the **generalised or systemic deficiencies** observed in the first step would “specifically and precisely” affect the defendant

Article 15(2) EAW FD

Entitles the executing judicial authority to request additional information when the provided information is not sufficient. This must be requested before refusal.

CJEU

Issuing judicial authority must first observe the fundamental rights of the requested person and examine whether it is proportionate to issue the EAW

