Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

28 July 2016*

(Reference for a preliminary ruling — Urgent preliminary ruling procedure — Police and judicial cooperation in criminal matters — Framework Decision 2002/584/JHA — Article 26(1) — European arrest warrant — Effects of the surrender — Deduction of the period of detention served in the executing Member State — Concept of 'detention' — Measures involving a restriction of liberty other than imprisonment — Curfew in conjunction with the wearing of an electronic tag — Charter of Fundamental Rights of the European Union — Articles 6 and 49)

In Case C-294/16 PPU,

REQUEST for a preliminary ruling under Article 267 TFEU from the Sąd Rejonowy dla Łodzi — Śródmieścia w Łodzi (Poland), made by decision of 24 May 2016, received at the Court on 25 May 2016, in the proceedings

JZ

v

Prokuratura Rejonowa Łódź — Śródmieście,

THE COURT (Fourth Chamber),

composed of T. von Danwitz, President of the Chamber, C. Lycourgos (Rapporteur), E. Juhász, C. Vajda and K. Jürimäe, Judges,

Advocate General: M. Campos Sánchez-Bordona,

Registrar: M. Aleksejev, Administrator,

having regard to the written procedure and further to the hearing on 4 July 2016,

after considering the observations submitted on behalf of:

— the Polish Government, by B. Majczyna and J. Sawicka, acting as Agents,

— the German Government, by T. Henze and M. Hellmann, acting as Agents,

— the United Kingdom Government, by C.R. Brodie, acting as Agent, and by D. Blundell, Barrister,

— the European Commission, by M. Owsiany-Hornung and S. Grünheid, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 19 July 2016,

* Language of the case: Polish.

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 26(1) of 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) ('Framework Decision 2002/584').

2 The request has been made in proceedings between JZ and the Prokuratura Rejonowa Łódź — Śródmieście (Prosecutor for the District of Łódź, Poland) concerning the request by JZ for the deduction, from the total period of the custodial sentence imposed on him in Poland, of the period during which he was made subject, by the Member State which executed the European arrest warrant, namely the United Kingdom of Great Britain and Northern Ireland, to the electronic monitoring of his place of residence, in conjunction with a curfew.

Legal context

The ECHR

3 Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('the ECHR'), entitled 'Right to liberty and security', provides in paragraph 1 that 'everyone has the right to liberty and security of person'.

The Charter

4 In accordance with Article 6 of the Charter of Fundamental Rights of the European Union ('the Charter'), which is entitled 'Right to liberty and security', 'everyone has the right to liberty and security of person'.

5 Article 49 of the Charter, entitled 'Principles of legality and proportionality of criminal offences and penalties', provides in paragraph 3 that 'the severity of penalties must not be disproportionate to the criminal offence'.

6 Article 52 of the Charter, entitled 'Scope and interpretation of rights and principles', provides, in paragraphs 3 and 7:

'3. In so far as this Charter contains rights which correspond to rights guaranteed by the [ECHR], the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection.

...

7. The explanations drawn up as a way of providing guidance in the interpretation of this Charter shall be given due regard by the courts of the Union and of the Member States.'

Framework Decision 2002/584

7 Recital 12 of Framework Decision 2002/584 states that that decision respects fundamental rights and observes the principles recognised by Article 6 EU and reflected in the Charter, in particular Chapter VI thereof.

8 As provided in Article 1(3) of that framework decision:

'This Framework Decision shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 [EU].'

9 Article 12 of that framework decision, entitled 'Keeping the person in detention', provides:

'When a person is arrested on the basis of a European arrest warrant, the executing judicial authority shall take a decision on whether the requested person should remain in detention, in accordance with the law of the executing Member State. The person may be released provisionally at any time in conformity with the domestic law of the executing Member State, provided that the competent authority of the said Member State takes all the measures it deems necessary to prevent the person absconding.'

10 Article 26, which is in Chapter 3 of Framework Decision 2002/584 and is entitled 'Deduction of the period of detention served in the executing Member State', provides:

'1. The issuing Member State shall deduct all periods of detention arising from the execution of a European arrest warrant from the total period of detention to be served in the issuing Member State as a result of a custodial sentence or detention order being passed.

2. To that end, all information concerning the duration of the detention of the requested person on the basis of the European arrest warrant shall be transmitted by the executing judicial authority or the central authority designated under Article 7 to the issuing judicial authority at the time of the surrender.'

Polish law

11 Article 63(1) of the Criminal Code (kodeks karny) of 6 June 1997 (*Dziennik Ustaw* 1997 No 88, item 553) provides that periods of *de facto* deprivation of liberty are to be deducted from the sentence, rounded up to a full day, with one day of *de facto* deprivation of liberty being equal to one day of deprivation of liberty, two days of restriction of liberty or two day-fines. For the purposes of Article 63(1), a day means a period of 24 hours calculated from the time of the *de facto* deprivation of liberty.

12 Under Article 607f of the Code of Criminal Procedure (kodeks postępowania karnego) of 6 June 1997 (*Dziennik Ustaw* 1997 No 89, item 555), which transposes Article 26(1) of Framework Decision 2002/584 into Polish law, the periods of *de facto* deprivation of liberty served in the Member State executing the arrest warrant for the purpose of the surrender are to be deducted from the sentence which has been handed down or is being served.

The dispute in the main proceedings and the question referred for a preliminary ruling

13 By judgment of 27 March 2007, the Sąd Rejonowy dla Łodzi — Śródmieścia w Łodzi (District Court for Central Łódź, Łódź, Poland) imposed a custodial sentence of three years and two months on JZ.

14 JZ absconded and a European arrest warrant was therefore issued for him. On 18 June 2014, JZ was arrested by the United Kingdom authorities under that European arrest warrant, and was held in custody until 19 June 2014. By a decision of 25 June 2015, the Polish court credited that period towards the custodial sentence which JZ was required to serve in Poland.

15 From 19 June 2014 to 14 May 2015, JZ, who was released on bail of GBP 2 000, was required to stay at the address he had given, between the hours of 22.00 and 7.00, and his compliance with that requirement was subject to electronic monitoring. In addition, JZ was obliged to report to a police station between the hours of 10.00 and 12.00, initially daily, then, after three months, three times a week, was prohibited from applying for foreign travel documents and was required to keep his mobile telephone switched on and charged at all times. Those measures were applied until 14 May 2015, the date on which he was surrendered to the Polish authorities.

16 In the referring court, JZ has requested that the period during which he was subject to a curfew in the United Kingdom and to electronic monitoring be credited towards his custodial sentence. He submits, in particular, that, under Article 26(1) of Framework Decision 2002/584, the decision on giving credit for the detention order in the sentence passed must be taken on the basis of the provisions in force in the United Kingdom, under which a detention order consisting in the person concerned being made subject to electronic monitoring for eight or more hours a day must, in his opinion, be regarded as a custodial sentence.

17 The referring court indicates in that regard that it is possible under United Kingdom law to deduct curfew periods in conjunction with electronic monitoring of the place of residence from the sentence passed only where the curfew is applied for not less than nine hours a day, and that, as a general rule, half of the period during which the measure is applied, rounded up to a full day, can be credited.

18 The referring court notes that the requirement that JZ remain at home at night had resulted in his losing his job, since it was a temporary job and his employer was not obliged to adjust his working hours to suit his availability. Moreover, during the first three months of the curfew period, JZ had been obliged to report every day, between 10.00 and 12.00, to a police station approximately 16 km from his place of residence. It was only after those three months that the frequency of those appearances was reduced to three times a week and JZ was able to report to a police station closer to his place of residence. During that period, JZ was unable to find a job that was suited to his availability. He therefore stayed at home with his children and only his wife worked.

19 The referring court considers that the interpretation of the term ‘detention’ in Article 26(1) of Framework Decision 2002/584 is crucial to the correct interpretation and application of the provisions of national law governing the reduction of the term of a custodial sentence, including Article 607f of the Code of Criminal Procedure, which was introduced into Polish law for the purpose of transposing Framework Decision 2002/584.

20 The referring court notes in that regard that the interpretation of the concept of ‘deprivation of liberty’, in Article 607f of the Code of Criminal Procedure, gives rise to differences in the case-law of the courts and in the legal literature.

21 The referring court considers that, in the light of recital 12 of Framework Decision 2002/584 and Article 6 TEU, Article 26(1) of that framework decision must be interpreted in the light of Article 5 of the ECHR and the interpretation of that article by the European Court of Human Rights.

22 It follows, according to the referring court, that the national court should have the opportunity of assessing whether, in the case before it, all the measures applied to the person sentenced and the duration of those measures permit the inference that those measures constitute deprivation of liberty,

and, accordingly, on the basis of all the legal rules concerned and applying the principle that national law is to be interpreted in conformity with EU law, possibly of deducting from the length of the custodial sentence passed the period during which those measures were applied.

23 Furthermore, adopting a strict interpretation of 'detention', thereby restricting the application of Article 26(1) of Framework Decision 2002/584 to conventional forms of deprivation of liberty, such as imprisonment or pre-trial detention, could, according to the referring court, lead to a breach of the principle of proportionality laid down in Article 49(3) of the Charter.

24 The referring court states that the case in the main proceedings is characterised by the application of a series of different measures which, taken together, could be regarded as a deprivation of liberty. The application of those measures over several months could ultimately be regarded as an additional penalty for the same offence as that for which the person sentenced has already been given a long custodial sentence. The referring court notes in that regard that, during the curfew period, JZ was unable to find gainful employment compatible with the time constraints to which he was subject and that his wife bore the entire burden of maintaining the household.

25 In those circumstances, the Sąd Rejonowy dla Łodzi — Śródmieścia w Łodzi (District Court for Central Łódź, Łódź) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Must Article 26(1) of [Framework Decision 2002/584], in conjunction with Article 6(1) and (3) [TEU] and Article 49(3) of the [Charter], be interpreted as meaning that the term "detention" also covers measures applied by the executing Member State consisting in the electronic monitoring of the place of residence of the person to whom the arrest warrant applies, in conjunction with a curfew?'

The urgent procedure

26 The referring court has requested that the present reference for a preliminary ruling be dealt with under the urgent preliminary ruling procedure provided for in Article 107 of the Rules of Procedure of the Court of Justice.

27 In support of that request, the referring court states that JZ is being held in custody, as his custodial sentence runs until 9 March 2017. It considers, moreover, that, should it prove necessary to credit the entire period during which JZ was subject to a curfew and electronic monitoring, that is the period from 19 June 2014 to 14 May 2015, towards that custodial sentence, the individual concerned would have to be released from the detention facility immediately. Consequently, the referring court considers that the possible date of JZ's release depends directly on the date on which the Court of Justice rules on the request for a preliminary ruling that is before it.

28 It must be pointed out, in the first place, that this reference for a preliminary ruling concerns the interpretation of Framework Decision 2002/584, which comes within the field covered by Part Three, Title V, of the FEU Treaty, relating to the area of freedom, security and justice. It may therefore be dealt with under the urgent preliminary ruling procedure.

29 In the second place, as regards the test for urgency, it is necessary, according to the case-law of the Court, to take into consideration the fact that the person involved in the main proceedings is currently deprived of his liberty and that the question as to whether he may continue to be held in custody depends on the outcome of the dispute in the main proceedings (see, to that effect, judgment of 24 May 2016 in *Dworzecki*, C-108/16 PPU, EU:C:2016:346, paragraph 22 and the case-law cited). In the present case, it is apparent from the information supplied by the referring court and recalled in

paragraph 27 of this judgment that JZ is currently deprived of his liberty and that the question as to whether he may continue to be held in custody depends on the decision of the Court, in so far as an affirmative answer by the Court to the question referred could result in his immediate release.

30 In those circumstances, on 6 June 2016, the Fourth Chamber of the Court of Justice, acting on a proposal from the Judge-Rapporteur and after hearing the Advocate General, decided to accede to the referring court's request that the present reference for a preliminary ruling be dealt with under the urgent preliminary ruling procedure.

Consideration of the question referred

31 By its question, the referring court asks, in essence, whether Article 26(1) of Framework Decision 2002/584 must be interpreted as meaning that measures such as a nine-hour night-time curfew, in conjunction with the monitoring of the person concerned by means of an electronic tag, an obligation to report to a police station at fixed times on a daily basis or several times a week, and a ban on applying for foreign travel documents, may be classified as 'detention' within the meaning of Article 26(1).

32 As a preliminary point, it must be noted that the binding character of Framework Decision 2002/584 places on the judicial authority of the Member State issuing the European arrest warrant an obligation to interpret national law in conformity with EU law. That authority is therefore bound to interpret domestic law, so far as possible, in the light of the wording and the purpose of that framework decision in order to achieve the result sought by it (see, to that effect, judgment of 5 September 2012 in *Lopes Da Silva Jorge*, C-42/11, EU:C:2012:517, paragraphs 53 and 54 and the case-law cited).

33 Admittedly, the obligation to interpret national law in conformity with EU law is limited by general principles of law and cannot serve as the basis for an interpretation of national law *contra legem*. The fact remains, however, that the principle that national law must be interpreted in conformity with EU law requires national courts to do whatever lies within their jurisdiction, taking the whole body of domestic law into consideration and applying the interpretative methods recognised by it, with a view to ensuring that the framework decision in question is fully effective and to achieving an outcome consistent with the objective pursued by it (see, to that effect, judgment of 5 September 2012 in *Lopes Da Silva Jorge*, C-42/11, EU:C:2012:517, paragraphs 55 and 56 and the case-law cited).

34 Under Article 26(1) of Framework Decision 2002/584, the issuing Member State is to deduct all periods of detention arising from the execution of a European arrest warrant from the total period of detention to be served in that Member State as a result of a custodial sentence or detention order being passed.

35 The Court has consistently held that it follows from the need for a uniform application of EU law, and from the principle of equality, that the terms of a provision of EU law which makes no express reference to the law of the Member States for the purpose of determining its meaning and scope must normally be given an autonomous and uniform interpretation throughout the European Union (see, to that effect, judgments of 17 July 2008 in *Kozłowski*, C-66/08, EU:C:2008:437, paragraph 42, and of 24 May 2016 in *Dworzecki*, C-108/16 PPU, EU:C:2016:346, paragraph 28).

36 However, that provision makes no express reference to the law of the Member States for the purpose of determining its meaning and scope.

37 Accordingly, it must be held that the concept of 'detention', which features in Article 26(1) of Framework Decision 2002/584, is an autonomous concept of EU law that must be given an autonomous and uniform interpretation throughout the European Union, which must take into

account the terms of that provision, its context and the objectives of the legislation of which it forms part (see, to that effect, judgment of 29 October 2015 in *Saudaçor*, C-174/14, EU:C:2015:733, paragraph 52).

38 As regards, in the first place, the wording of Article 26(1) of Framework Decision 2002/584, it must be borne in mind that the wording used in one language version of a provision of EU law cannot serve as the sole basis for the interpretation of that provision or be made to override the other language versions in that regard. Provisions of EU law must be interpreted and applied uniformly in the light of the versions existing in all EU languages (see, to that effect, judgment of 29 April 2015 in *Léger*, C-528/13, EU:C:2015:288, paragraph 35).

39 It must be noted in that regard that the various language versions of Article 26(1) of Framework Decision 2002/584 differ. For example, whereas the German-, Greek- and French-language versions use the terms 'Freiheitsentzug', 'στέρηση της ελευθερίας' and 'privation de liberté' to refer to the treatment of the person concerned in the issuing Member State, and the words 'Haft', 'κράτηση' and 'détention' in relation to the period to be deducted from the sentence passed, the English- and Polish-language versions use only the word 'detention' and 'zatrzymania' in Article 26(1). On the other hand, the Dutch-language version of that provision uses only the word 'vrijheidsbeneming', which corresponds to the expression 'deprivation of liberty'.

40 It must be noted that the terms 'detention' and 'deprivation of liberty' are used interchangeably in the various language versions of Article 26(1) of Framework Decision 2002/584, and, moreover, that these are similar concepts, the ordinary meaning of which evokes a situation of confinement or imprisonment, and not merely a restriction of the freedom of movement.

41 As regards, in the second place, the context of Article 26(1) of Framework Decision 2002/584, it must be noted that Article 12 of that framework decision provides that when a person is arrested on the basis of a European arrest warrant, the executing judicial authority is to take a decision, in accordance with the law of the executing Member State, on whether the requested person should remain in detention, while making clear that, at any time in conformity with the law of that Member State, it may be decided that the person concerned may be released provisionally, provided that the competent authority takes all the measures it deems necessary to prevent that person absconding. That provision thus envisages an alternative to 'detention', namely provisional release in conjunction with measures to prevent the person concerned from absconding.

42 As regards, in the third place, the objective pursued by Article 26(1) of Framework Decision 2002/584, it must be stated, as the Advocate General noted, in essence, at point 60 of his Opinion, that the obligation under that article to deduct the period of detention arising from the execution of the European arrest warrant from the total period of detention which the person concerned would be required to serve in the issuing Member State is designed to meet the general objective of respecting fundamental rights, as referred to in recital 12, and recalled in Article 1(3), of Framework Decision 2002/584, by preserving the right to liberty of the person concerned, enshrined in Article 6 of the Charter, and the practical effect of the principle of proportionality in the application of penalties, as provided for in Article 49(3) of the Charter.

43 In so far as it requires account to be taken of any period during which the person sentenced was detained in the executing Member State, Article 26(1) of Framework Decision 2002/584 ensures that that person is not required to serve a period of detention the total length of which — both in the executing Member State and in the issuing Member State — would ultimately exceed the length of the custodial sentence imposed on him in the issuing Member State.

44 As the Polish Government and the European Commission indicated both in their written observations and at the hearing, the deprivation of liberty, which is a constituent of detention, can characterise both imprisonment and, in exceptional cases, other measures which, while not constituting imprisonment in

the strict sense, are nevertheless so restrictive as to require them to be treated in the same way as imprisonment. That would be the case if the measures concerned were, on account of the type, duration, effects and manner of implementation of the measures in question, of such a severity as to deprive the person concerned of his liberty in a way that is comparable to imprisonment.

45 It follows from this that Article 26(1) of Framework Decision 2002/584 cannot be interpreted as merely requiring the Member State which issued the European arrest warrant to deduct only periods of imprisonment in the executing Member State, excluding periods during which other measures were applied that involve a deprivation of liberty with effects comparable to those of imprisonment.

46 It thus follows from the wording, the context and the objective of Article 26(1) of Framework Decision 2002/584 that the concept of 'detention', within the meaning of that provision, refers not to a measure that restricts liberty but to one that deprives a person of it, and which does not necessarily have to be in the form of imprisonment.

47 In view of the foregoing considerations and, in particular, the distinction to be drawn between measures that restrict liberty, on the one hand, and those which deprive a person of liberty, on the other, the concept of 'detention' within the meaning of Article 26(1) of Framework Decision 2002/584 must be interpreted as covering not only imprisonment but also any measure or set of measures imposed on the person concerned which, on account of the type, duration, effects and manner of implementation of the measure(s) in question deprive the person concerned of his liberty in a way that is comparable to imprisonment.

48 It should be noted in that regard that the case-law of the European Court of Human Rights in relation to the 'right to liberty' provided for in Article 5(1) of the ECHR, which corresponds to Article 6 of the Charter, supports that interpretation.

49 It will be recalled in that context that Article 52(3) of the Charter provides that, in so far as the Charter contains rights which correspond to rights guaranteed by the ECHR, the meaning and scope of those rights are to be the same as those laid down by the ECHR.

50 It is clear from the explanations relating to Article 52(3) of the Charter, which, in accordance with the third subparagraph of Article 6(1) TEU and Article 52(7) of the Charter, have to be taken into consideration for the purpose of interpreting it (see, to that effect, judgments of 26 February 2013 in *Åkerberg Fransson*, C-617/10, EU:C:2013:105, paragraph 20, and of 27 May 2014 in *Spasic*, C-129/14 PPU, EU:C:2014:586, paragraph 54), that Article 52(3) of the Charter is intended to ensure the necessary consistency between the rights contained in the Charter and the corresponding rights guaranteed by the ECHR, without thereby adversely affecting the autonomy of EU law and that of the Court of Justice of the European Union (see, to that effect, judgment of 15 February 2016 in *N.*, C-601/15 PPU, EU:C:2016:84, paragraph 47).

51 According to the European Court of Human Rights, the 'right to liberty' enshrined in Article 5(1) of the ECHR is not concerned with mere restrictions on liberty of movement, since only measures involving deprivation of liberty are covered by that article. In order to determine whether someone has been 'deprived of his liberty' within the meaning of Article 5 of the ECHR, the European Court of Human Rights has ruled that the starting point must be his concrete situation and that account must be taken of a whole range of criteria such as the type, duration, effects and manner of implementation of the measure in question (see, to that effect, ECtHR, 6 November 1980, *Guzzardi* v *Italy*, ECLI:CE:ECHR:1980:1106JUD000736776, § 92, and 5 July 2016 in *Buzadji* v *Republic of Moldova*, ECLI:CE:ECHR:2016:0705JUD002375507, § 103).

52 In its judgment of 20 April 2010 in *Villa* v *Italy* (ECLI:CE:ECHR:2010:0420JUD001967506, § 43 and 44), the European Court of Human Rights held that measures requiring the person concerned to report once a month to the monitoring police authority, to maintain contact with the psychiatric

centre of the relevant hospital, to live in a specified place, not to leave the district in which he was residing, and to stay at home between the hours of 22.00 and 7.00, did not constitute deprivation of liberty within the meaning of Article 5(1) of the ECHR.

53 When applying Article 26(1) of Framework Decision 2002/584, the judicial authority of the Member State which issued the European arrest warrant is required to consider whether the measures taken against the person concerned in the executing Member State are to be treated in the same way as a deprivation of liberty, as referred to in paragraph 47 of the present judgment, and therefore constitute detention within the meaning of Article 26(1). If, in carrying out that examination, the judicial authority comes to the conclusion that that is the case, Article 26(1) of Framework Decision 2002/584 requires that the whole of the period during which those measures were applied be deducted from the period of detention which that person would be required to serve in the Member State which issued the European arrest warrant.

54 It must be pointed out in that regard that, while measures such as a nine-hour night-time curfew, together with the monitoring of the person concerned by means of an electronic tag, an obligation to report to a police station at fixed times on a daily basis or several times a week, and a ban on applying for foreign travel documents, certainly restrict that person's liberty of movement, they are not, in principle, so restrictive as to have the effect of depriving him of his liberty and thus to be classified as 'detention' within the meaning of Article 26(1) of Framework Decision 2002/584.

55 However, in so far as Article 26(1) of that framework decision merely imposes a minimum level of protection of the fundamental rights of the person subject to the European arrest warrant, it cannot be interpreted, as the Advocate General stated at point 72 of his Opinion, as preventing the judicial authority of the Member State that issued that arrest warrant from being able, on the basis of domestic law alone, to deduct from the total period of detention which the person concerned would have to serve in that Member State all or part of the period during which that person was subject, in the executing Member State, to measures involving not a deprivation of liberty but a restriction of it.

56 It must, lastly, be borne in mind that, in the course of the examination referred to in paragraph 53 of the present judgment, the judicial authority of the Member State which issued the European arrest warrant may, under Article 26(2) of Framework Decision 2002/584, ask the competent authority of the executing Member State to transmit any information it considers necessary.

57 It follows from all the foregoing considerations that the answer to the question referred is that Article 26(1) of Framework Decision 2002/584 must be interpreted as meaning that measures such as a nine-hour night-time curfew, in conjunction with the monitoring of the person concerned by means of an electronic tag, an obligation to report to a police station at fixed times on a daily basis or several times a week, and a ban on applying for foreign travel documents, are not, in principle, having regard to the type, duration, effects and manner of implementation of all those measures, so restrictive as to give rise to a deprivation of liberty comparable to that arising from imprisonment and thus to be classified as 'detention' within the meaning of that provision, which it is nevertheless for the referring court to ascertain.

Costs

58 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fourth Chamber) hereby rules:

Article 26(1) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, must be interpreted as meaning that measures such as a nine-hour night-time curfew, in conjunction with the monitoring of the person concerned by means of an electronic tag, an obligation to report to a police station at fixed times on a daily basis or several times a week, and a ban on applying for foreign travel documents, are not, in principle, having regard to the type, duration, effects and manner of implementation of all those measures, so restrictive as to give rise to a deprivation of liberty comparable to that arising from imprisonment and thus to be classified as 'detention' within the meaning of that provision, which it is nevertheless for the referring court to ascertain.

[Signatures]