Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

9 October 2019*

(Reference for a preliminary ruling — Urgent preliminary ruling procedure — Police and judicial cooperation in criminal matters — European arrest warrant — Framework Decision 2002/584/JHA — Article 1(1) — Concept of 'European arrest warrant' — Minimum requirements on which validity depends — Article 6(1) — Concept of 'issuing judicial authority' — European arrest warrant issued by the public prosecutor's office of a Member State — Status — Whether subordinate to a body of the executive — Power of a Minister for Justice to issue instructions in a specific case — Certification of the European arrest warrant by a court before its transmission)

In Case C-489/19 PPU,

REQUEST for a preliminary ruling under Article 267 TFEU from the Kammergericht Berlin (Higher Regional Court, Berlin, Germany), made by decision of 26 June 2019, received at the Court on the same date, in the proceedings relating to the execution of a European arrest warrant issued against

NJ,

in the presence of:

Generalstaatsanwaltschaft Berlin,

THE COURT (Second Chamber),

composed of A. Arabadjiev (Rapporteur), President of the Chamber, P.G. Xuereb, T. von Danwitz, C. Vajda and A. Kumin, Judges,

Advocate General: E. Sharpston,

Registrar: D. Dittert, Head of Unit,

having regard to the referring court's request of 26 June 2019, received at the Court on the same date, that the reference for a preliminary ruling be dealt with under the urgent procedure pursuant to Article 107 of the Rules of Procedure,

having regard to the decision of the Second Chamber of 15 July 2019 to grant that request,

having regard to the written procedure and further to the hearing on 3 September 2019,

after considering the observations submitted on behalf of

– the German Government, by M. Hellmann, J. Möller and A. Berg, acting as Agents,

* Language of the case: German.

– the Spanish Government, by L. Aguilera Ruiz, acting as Agent,

– the Austrian Government, by J. Schmoll and J. Herrnfeld, acting as Agents,

– the European Commission, by S. Grünheid, acting as Agent,

Having heard the Opinion of the Advocate General at the sitting of 17 September 2019,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 6(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 was made in the context of the execution in Germany of a European arrest warrant issued against NJ on 16 May 2019 by the Staatsanwaltschaft Wien (Public Prosecutor's Office, Vienna, Austria) and endorsed on 20 May 2019 by a decision of the Landesgericht Wien (Regional Court, Vienna, Austria).

Legal context

European Union law

3 Recital 5 of Framework Decision 2002/584 is worded as follows:

'The objective set for the Union to become an area of freedom, security and justice leads to abolishing extradition between Member States and replacing it by a system of surrender between judicial authorities. Furthermore, the introduction of a new simplified system of surrender of sentenced or suspected persons for the purposes of execution or prosecution of criminal sentences makes it possible to remove the complexity and potential for delay inherent in the present extradition procedures. Traditional cooperation relations which have prevailed up till now between Member States should be replaced by a system of free movement of judicial decisions in criminal matters, covering both pre-sentence and final decisions, within an area of freedom, security and justice.'

4 Article 1 of Framework Decision 2002/584, entitled 'Definition of the European arrest warrant and obligation to execute it', provides:

'1. The European arrest warrant is a Judicial decision issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order.

2. Member States shall execute any European arrest warrant on the basis of the principle of mutual recognition and in accordance with the provisions of this Framework Decision.

3. 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].'

5 Under Article 6 of Framework Decision 2002/584, under the heading 'Determination of the competent judicial authorities':

'1. The issuing judicial authority shall be the judicial authority of the issuing Member State which is competent to issue a European arrest warrant by virtue of the law of that State.

2. The executing judicial authority shall be the judicial authority of the executing Member State which is competent to execute the European arrest warrant by virtue of the law of that State.

3. Each Member State shall inform the General Secretariat of the Council of the competent judicial authority under its law.'

6 Article 2(1) of that framework decision provides:

'A European arrest warrant may be issued for acts punishable by the law of the issuing Member State by a custodial sentence or a detention order for a maximum period of at least 12 months or, where a sentence has been passed or a detention order has been made, for sentences of at least four months.'

7 Article 8 of Framework Decision 2002/584, headed 'Content and form of the European arrest warrant', provides, in paragraph 1:

'The European arrest warrant shall contain the following information set out in accordance with the form contained in the Annex:

…

(c) evidence of an enforceable judgment, an arrest warrant or any other enforceable judicial decision having the same effect, coming within the scope of Articles 1 and 2;

…'

Austrian law

8 In accordance with Paragraph 2(1) of the Staatsanwaltschaftsgesetz (Law on public prosecutor's offices; 'the StAG'):

'At the seat of each Landesgericht (Regional Court) exercising criminal jurisdiction, there shall be a public prosecutor's office, at the seat of each Oberlandesgericht (Higher Regional Court) a higher public prosecutor's office, and at the Oberster Gerichtshof (Supreme Court) the principal public prosecutor's office. The public prosecutor's offices shall be directly subordinate to, and act on the instructions of, the higher public prosecutor's offices, just as the latter and the principal public prosecutor's office shall be directly subordinate to, and act on the instructions of, the Federal Minister for Justice.'

9 The first sentence of Paragraph 29(1) of the Gesetz über die Justizielle Zusammenarbeit in Strafsachen mit den Mitgliedstaaten der Europäischen Union (Law on judicial cooperation in criminal matters with the Member States of the European Union; 'the EU-GJZ') provides:

'The public prosecutor's office shall make an order for arrest by issuing a court-endorsed European arrest warrant and, where appropriate, have an alert relating to the requested person entered into the Schengen Information System …'

10 Paragraph 5(1) and (2) of the Strafprozessordnung (Code of Criminal Procedure; 'the StPO') provides:

'(1) When exercising their powers and taking evidence, the criminal police, the public prosecutor's office and the court shall interfere with individuals' rights only to the extent to which this is expressly provided for in law and is necessary to enable them to carry out their tasks. Any such impairment of legal interests must be proportionate to the seriousness of the offence, the seriousness of the charges and the outcome sought.

(2) From the various effective investigative and enforcement measures available to them, the criminal police, the public prosecutor's office and the court shall apply those which least adversely affect the rights of the persons concerned. Powers granted by law shall in any circumstances obtaining in the proceedings be exercised in such a way as to avoid unnecessary publicity, respect the dignity of the persons concerned and safeguard their rights and their interests that are worthy of protection.'

11 Under Paragraph 87(1) of the StPO, judicial endorsement is to be open to challenge.

12 Paragraph 105 of the StPO states:

'(1) The court shall decide on applications for the placing in and continuation of provisional detention as well as applications for the endorsement of certain other enforcement measures. For the purposes of the implementation of a measure which it has endorsed (Paragraph 101(3)), the court shall lay down a period on the expiry of which, if the measure in question has not been implemented, the endorsement shall lapse. In the case of an order for the issue of an arrest alert under Paragraph 169, that period shall not include the period of validity of the alert, although the public prosecutor's office shall review at least once a year whether the conditions of arrest still obtain.

(2) To the extent necessary on legal or factual grounds for the purposes of deciding on an application under subparagraph 1, the court can order further investigations by the Kriminalpolizei (criminal police) or undertake them of its own motion. It can also require the public prosecutor's office and the criminal police to provide factual clarifications from the case file and to submit a report on the implementation of the endorsed measure and the further investigations. Even after the imposition of provisional detention, the court can continue to order that copies of the documents referred to in Paragraph 52(2), points 2 and 3, be submitted to it.'

13 In accordance with Paragraph 171(1) of the StPO, which applies during the information phase of the criminal investigation, the public prosecutor's office shall order arrest on the basis of a court-endorsed act.

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

14 The Public Prosecutor's Office, Vienna, brought criminal proceedings against NJ in respect of four acts, which the referring court classifies, in particular, as theft committed in a professional capacity, punishable in the issuing Member State, according to the referring court, by a custodial sentence of 'a maximum of at least 3 years' within the meaning of Article 2(2) of Framework Decision 2002/584. That court considers that other acts of which NJ is accused, such as coercion, are punishable in the issuing and requested Member States by a maximum custodial sentence of at least 12 months.

15 For the purpose of prosecuting those acts, the Public Prosecutor's Office, Vienna, issued a European arrest warrant against NJ on 16 May 2019, which was endorsed, in accordance with the first sentence of Paragraph 29(1) of the EU-GJZ, on 20 May 2019, by the Landesgericht Wien (Regional Court, Vienna).

16 NJ has been placed in provisional detention in Berlin, Germany, since 14 May 2019, in connection with criminal proceedings against him in Germany for theft. According to the referring court, NJ, when questioned on 24 May 2019, did not consent to simplified extradition.

17 The referring court observes that the Austrian Public Prosecutor's Offices are subject to directions or instructions in a specific case from the executive, in this case the Federal Minister for Justice. Accordingly, it is doubtful as to the compatibility of the procedure for issuing a European arrest warrant in Austria with the requirements arising from the judgment of 27 May 2019, *OG and PI (Public Prosecutor's Offices of Lübeck and Zwickau)*, C-508/18 and C-82/19 PPU, EU:C:2019:456). In particular, that court entertains doubts as to the status of the Public Prosecutor's Office, Vienna, as a 'judicial authority'.

18 However, it points out that, unlike the facts on which that judgment was based, Austrian Public Prosecutor's Offices do not independently issue European arrest warrants in so far as Paragraph 29 of the EU-GJZ provides for the endorsement of such a warrant by a court. The endorsement procedure includes an examination of the legality and proportionality of the European arrest warrant concerned and is subject to judicial review. For those reasons, the referring court considers that it is possible to take the view that the power to decide whether to issue a European arrest warrant ultimately rests with the court responsible for endorsing it.

19 However, by order of 29 May 2019, the referring court ordered, in view of the doubts raised in the previous paragraph, NJ to be placed in provisional detention with a view to surrendering him to the Austrian authorities.

20 In those circumstances, the Kammergericht Berlin (Higher Regional Court, Berlin, Germany) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Does the fact that a public prosecutor's office is required to act on instruction preclude it from effectively issuing a European arrest warrant even in the case where that decision is subject to a comprehensive judicial review prior to the execution of the European arrest warrant?'

The urgent procedure

21 The referring court 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.

22 In support of its request, that court has relied on the fact that NJ is currently in provisional detention pending trial in criminal proceedings brought against him in Germany ('the first provisional detention'). NJ's provisional detention for the purpose of surrendering him to the Austrian authorities will begin only when the first provisional detention has ended and may not, thereafter, lawfully exceed a period of 2 months. In those circumstances, the referring court fears that if the Court decides not to initiate the urgent preliminary ruling procedure, NJ will have to be released before the outcome of the preliminary ruling procedure and may escape prosecution.

23 In that regard, it is appropriate to state, first, that the present reference for a preliminary ruling concerns the interpretation of Framework Decision 2002/584, which comes within the areas covered by Title V of Part Three of the FEU Treaty, on the area of freedom, security and justice. It can therefore be dealt with under the urgent preliminary ruling procedure.

24 Second, it is common ground that, at the time of the examination of the request for the preliminary reference to be subject to the urgent preliminary ruling procedure, NJ was placed in provisional detention, from which he could, however, be released at any time. In addition, as noted by the referring court, NJ would be held in detention beyond the duration of the first provisional detention, with a view to his possible surrender to the Austrian authorities, for a maximum period of 2 months. However, since the legality of his provisional detention for the purpose of his surrender to the Austrian authorities depends on the Court's answer to the question referred, it is apparent that that decision of the Court is likely to have a direct effect on the duration of NJ's deprivation of liberty.

25 In those circumstances, on 15 July 2019, 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

26 By its question, the referring court asks, in essence, whether the concept of 'European arrest warrant' referred to in Article 1(1) of Framework Decision 2002/584 must be interpreted as covering European arrest warrants issued by the public prosecutor's offices of a Member State which are exposed to the risk of being subject, directly or indirectly, to directions or instructions in a specific case from the executive, such as a Minister for Justice, in connection with the issue of those arrest warrants, which must be endorsed by a court which, within the framework of that procedure, in order that they may be transmitted by the public prosecutor's offices, must check the conditions necessary for the issue and the proportionality of those arrest warrants.

27 In that regard, It is important to bear in mind that the European arrest warrant system introduced by Framework Decision 2002/584 is based on the principle of mutual recognition, which is itself founded on the mutual confidence between the Member States that their national legal systems are capable of providing equivalent and effective protection of the fundamental rights recognised at EU level, particularly in the Charter of Fundamental Rights of the European Union ('the Charter') (judgment of 10 November 2016, *Özçelik*, C-453/16 PPU, EU:C:2016:860, paragraph 23 and the case-law cited).

28 Article 1(1) of Framework Decision 2002/584 defines the European arrest warrant as 'a judicial decision issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order'. The principle of mutual recognition proceeds from the assumption, in that regard, that only European arrest warrants, within the meaning of that provision, must be executed in accordance with the provisions of Framework Decision 2002/584 (judgment of 27 May 2019, *OG and PI (Public Prosecutor's Offices of Lübeck and Zwickau)*, C-508/18 and C-82/19 PPU, EU:C:2019:456, paragraph 46).

29 That principle is based on the premiss that the European arrest warrant concerned was issued in accordance with the minimum requirements on which its validity depends, including those laid down in Article 8 of Framework Decision 2002/584, in particular the requirement that there be an arrest warrant or other national judicial decision to which the European arrest warrant is attached (see, to that effect, judgment of 1 June 2016, *Bob-Dogi*, C-241/15, EU:C:2016:385, paragraph 53).

30 As is clear from the established case-law, the concept of 'judicial decision', within the meaning of Framework Decision 2002/584, is not limited to designating only decisions of the judges or courts of a Member State, but must be construed as designating, more broadly, the decisions adopted by the authorities participating in the administration of criminal justice in that Member State, such as the

Austrian Public Prosecutor's Office, as distinct from, inter alia, ministries or police services which are part of the executive (see, to that effect, judgment of 27 May 2019, *OG and PI (Public Prosecutor's Offices of Lübeck and Zwickau)*, C-508/18 and C-82/19 PPU, EU:C:2019:456, paragraph 50).

31 That said, decisions on the issue of a European arrest warrant must include the guarantees specific to judicial decisions, in particular those resulting from the fundamental rights referred to in Article 1(3) of Framework Decision 2002/584.

32 In that regard, it must be borne in mind that Framework Decision 2002/584 aims to introduce a simplified system of surrender directly between judicial authorities designed to replace a traditional system of cooperation between sovereign States — which involves the intervention and assessment of the executive — in order to ensure the free circulation of court decisions in criminal matters, within an area of freedom, security and justice (judgment of 27 May 2019, *OG and PI (Public Prosecutor's Offices of Lübeck and Zwickau)*, C-508/18 and C-82/19 PPU, EU:C:2019:456, paragraph 65).

33 In that context, where a European arrest warrant is issued with a view to the arrest and surrender by another Member State of a requested person for the purposes of conducting a criminal prosecution, that person must have already had the benefit, at the first stage of the proceedings, of procedural safeguards and fundamental rights, the protection of which it is the task of the judicial authorities of the issuing Member State to ensure, in accordance with the applicable provisions of national law, for the purpose, inter alia, of adopting a national arrest warrant (see, to that effect, judgment of 27 May 2019, *OG and PI (Public Prosecutor's Offices of Lübeck and Zwickau)*, C-508/18 and C-82/19 PPU, EU:C:2019:456, paragraph 66).

34 The Court has thus considered that the European arrest warrant system entails a dual level of protection of procedural rights and fundamental rights which must be enjoyed by the requested person, since, in addition to the judicial protection provided at the first level, at which a national decision, such as a national arrest warrant, is adopted, there is the protection that must be afforded at the second level, at which a European arrest warrant is issued, which may occur, depending on the circumstances, shortly after the adoption of the national judicial decision (judgment of 27 May 2019, *OG and PI (Public Prosecutor's Offices of Lübeck and Zwickau)*, C-508/18 and C-82/19 PPU, EU:C:2019:456, paragraph 67).

35 In addition, it should be recalled that, since the issuing of a European arrest warrant, which is capable of impinging on the right to liberty of the person concerned, enshrined in Article 6 of the Charter, that protection means that a decision meeting the requirements inherent in effective judicial protection should be adopted, at least, at one of the two levels of that protection (judgment of 27 May 2019, *OG and PI (Public Prosecutor's Offices of Lübeck and Zwickau)*, C-508/18 and C-82/19 PPU, EU:C:2019:456, paragraph 68).

36 In that regard, it should be noted, first, that, where those requirements are met, the executing judicial authority may be satisfied that the decision to issue a European arrest warrant for the purpose of criminal prosecution is based on a national procedure that is subject to review by a court and that the person in respect of whom that national arrest warrant was issued has had the benefit of all safeguards derived from the fundamental rights and fundamental legal principles referred to in Article 1(3) of Framework Decision 2002/584 (judgment of 27 May 2019, *OG and PI (Public Prosecutor's Offices of Lübeck and Zwickau)*, C-508/18 and C-82/19 PPU, EU:C:2019:456, paragraph 70).

37 Second, the review carried out at the time of adoption of an arrest warrant must include an examination of the observance of the conditions necessary for the issuing of that arrest warrant and of whether, in the light of the particular circumstances of each case, it is proportionate to issue that warrant (see, to that effect, judgment of 27 May 2019, *OG and PI (Public Prosecutor's Offices of Lübeck and Zwickau)*, C-508/18 and C-82/19 PPU, EU:C:2019:456, paragraph 71).

38 Third, that review must be exercised objectively, taking into account all incriminatory and exculpatory evidence, and independently, which presupposes the existence of statutory rules and an institutional framework capable of excluding any risk that the adoption of a decision to issue such an arrest warrant be subject to external instructions, in particular from the executive (see, to that effect, judgment of 27 May 2019, *OG and PI (Public Prosecutor's Offices of Lübeck and Zwickau)*, C-508/18 and C-82/19 PPU, EU:C:2019:456, paragraphs 73 and 74).

39 In the present case, it appears from the information in the file before the Court that, in circumstances such as those at issue in the main proceedings, Austrian law provides that, both in the context of the decision to issue a national arrest warrant and in the context of the decision to issue a European arrest warrant, the Public Prosecutor's Offices of the Republic of Austria are to order an arrest by means of an arrest warrant, which must be endorsed, in order that it may be transmitted by a court which is to carry out, in that regard, a review of the conditions of the issue and its proportionality. The endorsement decision is subject to appeal before the courts.

40 In addition, it is common ground that the courts responsible for the endorsement of European arrest warrants meet the requirement of objectivity and independence. However, in the case of the Austrian Public Prosecutor's Offices, Paragraph 2(1) of the StAG states that they are directly subordinate to the higher public prosecutor's offices and subject to their instructions and that the latter are in turn subordinate to the Federal Minister of Justice. Given that the necessary independence requires that there be statutory rules and an institutional framework capable of guaranteeing that the issuing judicial authority is not exposed, when adopting a European arrest warrant, to any risk of being subject, inter alia, to an instruction in a specific case from the executive, the Austrian Public Prosecutor's Offices cannot be regarded as satisfying that requirement (see, by analogy, judgment of 27 May 2019, *OG and PI (Public Prosecutor's Offices of Lübeck and Zwickau)*, C-508/18 and C-82/19 PPU, EU:C:2019:456, paragraphs 74 and 84).

41 The question therefore arises as to whether, in those circumstances, decisions relating to the issue of a European arrest warrant, adopted in accordance with the Austrian system, can be regarded as satisfying the minimum requirements on which their validity depends as regards the objectivity and independence of the review carried out when those decisions are adopted, as referred to in paragraph 38 of this judgment.

42 In that context, it must be pointed out that the concept of 'decision' must be understood as referring to the act in the form which it takes when it is executed. Indeed, it is at that time and in that form that the decision to issue the European arrest warrant is likely to impinge on the right to freedom of the person requested.

43 In the present case, first of all, it appears from the information in the file submitted to the Court that the decision to issue a national arrest warrant and that to issue a European arrest warrant must, under Article 171(1) of the StPO and the first sentence of Article 29(1) of the EU-GJZ, respectively, be endorsed by a court before their transmission. Thus, in the absence of endorsement of the decisions of the public prosecutor's office, arrest warrants do not produce legal effects and cannot be transmitted, which was confirmed by the Austrian Government at the hearing.

44 Second, it is apparent from the request for a preliminary ruling that, in the context of the endorsement procedure, the court examines the conditions necessary for the issue of the arrest warrant concerned and its proportionality, taking into account the particular circumstances of each specific case. In that regard, in its observations and at the hearing before the Court, the Austrian Government specified that, first, any instructions from the executive must be in writing and added to the criminal file which is transmitted in full to the court responsible for the endorsement. Second, the review of proportionality carried out by that court relates, in the context of the endorsement of a national arrest warrant, to the effects of the deprivation of liberty alone caused by it and, in the context of the endorsement of a European arrest warrant, to the impinging on the rights of the person concerned

which goes beyond the infringements of his right to freedom already examined. The court responsible for the endorsement of a European arrest warrant is required to take into account, in particular, the effects of the surrender procedure and the transfer of the person concerned residing in a Member State other than the Republic of Austria on that person's social and family relationships.

45 Finally, it is clear from Article 105(2) of the StPO that the court responsible for endorsing arrest warrants is not bound by the results of the investigation conducted by the public prosecutor's offices and must not be limited to the indications and grounds for the injunction set out by them. In that regard, the Austrian Government confirmed, at the hearing before the Court, that the court responsible for the endorsement of arrest warrants may, at any time, order additional investigations or carry them out itself.

46 It therefore appears that the issue of a European arrest warrant is, under Austrian law, subject in its entirety to objective and independent review by a court which carries out a full review in that regard of the conditions for the issue of that arrest warrant and of its proportionality. It is only after the endorsement of the arrest warrant concerned by that court that that arrest warrant produces legal effects and can be transmitted. However, in that it systematically takes place *ex officio* before the arrest warrant produces legal effects and can be transmitted, such a review is distinct from a right to a remedy, such as that referred to in paragraphs 85 to 87 of the judgment of 27 May 2019, *OG and PI (Public Prosecutor's Offices of Lübeck and Zwickau)*, C-508/18 and C-82/19 PPU, EU:C:2019:456), which takes place only a posteriori and at the request of the person concerned.

47 Moreover, as the Advocate General pointed out, in essence, in point 73 of her Opinion, it is apparent from the file submitted to the Court that the court responsible for the endorsement of a European arrest warrant exercises its review independently and in full knowledge of any instructions that may have been issued in advance and adopts, at the end of that review, a decision that is independent of the decision of the public prosecutor's office, going beyond a mere confirmation of the legality of that decision.

48 In those circumstances, the decision concerning the European arrest warrant in the form in which it will be transmitted must be deemed to satisfy the requirements of objectivity and independence of the review carried out at the time of the adoption of that decision, referred to in paragraph 38 of this judgment.

49 Having regard to the foregoing considerations, the answer to the question referred is that the concept of a 'European arrest warrant' referred to in Article 1(1) of Framework Decision 2002/584 must be interpreted as meaning that European arrest warrants issued by the public prosecutor's offices of a Member State fall within that concept, despite the fact that those public prosecutor's offices are exposed to the risk of being subject, directly or indirectly, to directions or instructions in a specific case, from the executive, such as a Minister for Justice, in the context of the issue of those arrest warrants, provided that those arrest warrants are subject, in order to be transmitted by those public prosecutor's offices, to endorsement by a court which reviews independently and objectively, having access to the entire criminal file to which any directions or instructions in a specific case from the executive are added, the conditions of issue and the proportionality of those arrest warrants, thus adopting an autonomous decision which gives them their final form.

Costs

50 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring 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 (Second Chamber) hereby rules:

The concept of a 'European arrest warrant' referred to in Article 1(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 European arrest warrants issued by the public prosecutor's offices of a Member State fall within that concept, despite the fact that those public prosecutor's offices are exposed to the risk of being subject, directly or indirectly, to directions or instructions in a specific case from the executive, such as a Minister for Justice, in the context of the issue of those arrest warrants, provided that those arrest warrants are subject, in order to be transmitted by those public prosecutor's offices, to endorsement by a court which reviews independently and objectively, having access to the entire criminal file to which any specific directions or instructions from the executive are added, the conditions of issue and the proportionality of those arrest warrants, thus adopting an autonomous decision which gives them their final form.

[Signatures]