

# Overview of Case Law by the Court of Justice of the European Union on the European Arrest Warrant

## Subtitle

Date:	15.03.2021
URL:	<a href="https://www.eurojust.europa.eu/case-law-court-justice-european-union-european-arrest-warrant-march2021">https://www.eurojust.europa.eu/case-law-court-justice-european-union-european-arrest-warrant-march2021</a>

## Executive summary

This document provides an overview of the case-law of the Court of Justice of the European Union (CJEU) with regard to the application of Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (EAW FD).

The **2021 edition of Eurojust's overview on the case-law of the CJEU on the European arrest warrant (EAW) is up to date as of 15 March 2021**. Compared with the previous (2020) edition, it contains nine additional judgments, totalling 55 judgments for the period 2007–2021. Depending of the number of upcoming judgments, the next update of this document will be published still in 2021 or in 2022.

The case-law overview contains summaries of the CJEU's judgments categorised according to a set of important keywords that largely reflect the structure of the EAW FD. A table of keywords and a chronological list of judgments is also provided at the beginning of the document.

The overview covers the following main topics. Recent developments since the last update are mentioned per topic.

- **Validity of the EAW FD.** In 2021, the CJEU upheld the validity of the EAW FD dismissing challenges based on fundamental rights grounds (Case C-649/19, *Spetsializirana prokuratura (Déclaration des droits)*).
- **Admissibility of a request for a preliminary ruling by an issuing judicial authority.** In 2021, the CJEU accepted that the issuing judicial authority can request a preliminary ruling where the EAW has already been annulled, with a view to adopting a new EAW (*Spetsializirana prokuratura (Déclaration des droits)*).
- **Content and validity of the EAW.** In 2020, the CJEU also extended its case-law on the concept of issuing judicial authority within the meaning of Article 6(1) EAW FD to the concept of 'executing judicial authority' within the meaning of Articles 6(2), 27(3)(g) and 27(4) EAW FD (*Openbaar Ministerie (Faux en écritures)*). The CJEU also ruled that systemic or general deficiencies affecting the independence of the issuing Member State's judiciary are not sufficient, on their own, to conclude that all the courts of the issuing Member State fail to fall within the concept of 'issuing judicial authority' (*Openbaar Ministerie (Indépendance de l'autorité judiciaire d'émission)*). In 2021, the CJEU further clarified the meaning of the concept 'national arrest warrant or any other enforceable judicial decision having the same effect' (*MM*). As to the requirements of effective judicial protection in relation to an EAW for the purposes of prosecution, the CJEU ruled that they presuppose that either the EAW or the national arrest warrant on which it is based be subject to judicial review by a court in the issuing Member State prior to the surrender of the requested person (*PI*).

- **Obligation to execute an EAW.**
- **Scope of the EAW.**
- **Human rights scrutiny.** In 2020, the CJEU further clarified the two-step assessment in relation to the fundamental right to an independent tribunal. The CJEU also recalled that existence of systemic or generalised deficiencies concerning judicial independence in an issuing Member State does not justify in itself the executing judicial authority refusing to execute any EAW issued by a judicial authority of that Member State (*Openbaar Ministerie (Indépendance de l'autorité judiciaire d'émission)*).