



Council of the
European Union

Brussels, 8 February 2018
(OR. en)

5825/18

JAI 68
COPEN 21
EUROJUST 8
EJN 4
CATS 3

NOTE

From: Presidency
To: CATS

Subject: Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States
- Recent case-law of the Court of Justice EU

At its meeting on 18 December 2017, the COPEN Working Party discussed recent case-law of the Court of Justice of the European Union ("CJEU") concerning the application of the European Arrest Warrant (FD 2002/584/JHA, "EAW").

On the basis of doc. 15206/17, which had been provided by the Commission services, the Member States discussed the following judgments:

- Poplawski (Case C-579/15), regarding the obligation for Member States to transpose optional grounds for non-execution of a EAW in an "optional way"; and
- Tupikas (Case C-270/17) and Zdziaszek (Case C-271/17), regarding the concept of "trial resulting in the decision" in the light of the right to defense.

On the basis of doc. 15207/17, which contains extracts from conclusions from the 48th and 49th plenary meetings of the European Judicial Network, the Member States discussed the following judgments:

- Petruhhin (Case C-182/15), on the relation between extradition and EAW procedures;
- Aranyosi and Căldăraru (Cases C-404/15 and C-659/15 PPU), regarding EAW and detention conditions.

On the basis of both papers, the Member States also discussed the judgment in Vilkas (Case C-640/15), regarding the continuing obligation for Member States to execute a EAW, despite the expiry of the time-limits as foreseen in FD 2002/584/JHA.

Although the system of the EAW generally continues to operate smoothly, several Member States observed that the above judgments, in particular the Aranyosi and Căldăraru line of case-law, has made the work of practitioners more difficult.

Member States who so wish are invited to comment on these or other judgments of the CJEU concerning the application of the EAW.
