

Judgment of the Court (Fourth Chamber) of 17 December 2020 (request for a preliminary ruling from the Hanseatisches Oberlandesgericht Hamburg — Germany) — Execution of European arrest warrants issued in respect of TR

(Case C-416/20 PPU) ⁽¹⁾

(Reference for a preliminary ruling — Urgent preliminary ruling procedure — Police and judicial cooperation in criminal matters — Framework Decision 2002/584/JHA — European arrest warrant — Article 4a(1) — Surrender procedures between Member States — Conditions for execution — Grounds for optional non-execution — Exceptions — Mandatory execution — Sentence imposed in absentia — Escape of the person being prosecuted — Directive (EU) 2016/343 — Articles 8 and 9 — Right to be present at the trial — Requirements in the event of conviction in absentia — Verification on surrender of the convicted person)

(2021/C 62/11)

Language of the case: German

Referring court

Hanseatisches Oberlandesgericht Hamburg

Parties to the main proceedings

TR

Intervener: Generalstaatsanwaltschaft Hamburg

Operative part of the judgment

Article 4a 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 the executing judicial authority cannot refuse to execute a European arrest warrant issued for the purposes of executing a custodial sentence or a detention order, where the person concerned has prevented the service of summons on him in person and has failed to appear in person at the trial on account of his escape to the executing Member State, on the sole ground that that authority does not have the assurance that, in the event of surrender to the issuing Member State, the right to a new trial, as defined under Articles 8 and 9 of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, will be respected.

⁽¹⁾ OJ C 390, 16.11.2020.

Reference for a preliminary ruling from the First-tier Tribunal (Immigration and Asylum Chamber) (United Kingdom) made on 29 July 2020 — NB, AB v Secretary of State for the Home Department; Intervenor: United Nations High Commissioner for Refugees

(Case C-349/20)

(2021/C 62/12)

Language of the case: English

Referring court

First-tier Tribunal (Immigration and Asylum Chamber)

Parties to the main proceedings

Appellants: NB, AB

Respondent: Secretary of State for the Home Department

Intervenor: United Nations High Commissioner for Refugees

Questions referred

In assessing whether there has been a cessation of protection or assistance from UNRWA⁽¹⁾ within the meaning of the second sentence of Article 12(1) (a) of the QD⁽²⁾ to an UNRWA-registered stateless Palestinian in respect of the assistance afforded to disabled persons:

1. Is the assessment purely an historic exercise of considering the circumstances which are said to have forced an applicant to leave the UNRWA area of operations when he did, or is it also an ex nunc, forward-looking assessment of whether the applicant can avail himself of such protection or assistance presently?
2. If the answer to Question 1 is that assessment includes a forward-looking assessment, is it legitimate to rely analogically on the cessation clause in Article 11, so that where historically the applicant can show a qualifying reason as to why he or she left the UNRWA area, the evidential burden falls upon the Member State to show that such reason no longer holds?
3. In order for there to be justifiable objective reasons for the departure of such a person related to UNRW[A]'s provision of protection or assistance, is it necessary to establish intentional infliction of harm or deprivation of assistance (by act or omission) on the part of UNRWA or the state in which it operates?
4. Is it relevant to take into account the assistance provided to such persons by civil society actors such as NGOs?

⁽¹⁾ United Nations Relief and Works Association.

⁽²⁾ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (the Qualification Directive; hereafter: 'QD')(OJ 2004, L 304, p. 12).

Request for a preliminary ruling from the Úřad pro přístup k dopravní infrastruktuře (Czech Republic) lodged on 23 September 2020 — CityRail a.s. v Správa železnic, státní organizace

(Case C-453/20)

(2021/C 62/13)

Language of the case: Czech

Referring court

Úřad pro přístup k dopravní infrastruktuře

Parties to the main proceedings

Applicant: CityRail a.s.

Defendant: Správa železnic, státní organizace

Questions referred

1. Does the *place of loading and unloading for the transport of goods*, including related tracks, constitute part of railway infrastructure as defined by Article 3(3) of Directive 2012/34?⁽¹⁾
2. Is it in accordance with Directive 2012/34 that an infrastructure manager may at any time change prices for the use of railway infrastructure or service facilities to the detriment of freight forwarders?
3. Is Directive 2012/34 binding for Správa železnic, státní organizace (the Railway Administration) pursuant to Article 288 of the Treaty on the Functioning of the European Union?