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ECLI:EU:C:2023:668

Provisional text

JUDGMENT OF THE COURT (Sixth Chamber)

14 September 2023 (\*)

(Reference for a preliminary ruling – Judicial cooperation in criminal matters – Agreement on the surrender procedure between, on the one hand, the Member States of the European Union and, on the other hand, the Republic of Iceland and the Kingdom of Norway – Article 1(3) – Fundamental rights – Refusal by a Member State to execute an arrest warrant issued by the Kingdom of Norway – Issuing of a new arrest warrant by the Kingdom of Norway against the same person for the same acts – Examination by another Member State – Taking into account of the refusal to execute the first arrest warrant)

In Case C-71/21,

REQUEST for a preliminary ruling under Article 267 TFEU from the Sofiyski gradski sad (Sofia City Court, Bulgaria), made by decision of 4 February 2021, received at the Court on 4 February 2021, in the proceedings relating to the execution of the arrest warrant issued against

**KT,**

intervening party:

**Sofiyska gradska prokuratura,**

THE COURT (Sixth Chamber),

composed of P.G. Xuereb, President of the Chamber, L. Bay Larsen (Rapporteur), Vice-President of the Court, and T. von Danwitz, Judge,

Advocate General: G. Pitruzzella,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- Ireland, by M. Browne, A. Joyce and J. Quaney, acting as Agents, and by M. Gráinne, Barrister-at-Law,
- the Hungarian Government, by M.Z. Fehér and R. Kissné Berta, acting as Agents,
- the Austrian Government, by J. Schmoll, C. Leeb and A. Posch, acting as Agents,
- the European Commission, by S. Grünheid and I. Zaloguín, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

## **Judgment**

1 This request for a preliminary ruling concerns the interpretation of Article 6 TEU, Articles 21(1) and 67(1) TFEU, Articles 6 and 45(1) of the Charter of Fundamental Rights of the European Union (‘the Charter’), Articles 1(2) and (3) of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway (OJ 2006 L 292, p. 2), which was approved, on behalf of the European Union, by Council Decision 2014/835/EU of 27 November 2014 on the conclusion of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway (OJ 2014 L 343, p. 1), and which entered into force on 1 November 2019 (‘the Agreement on the surrender procedure’), and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 (‘the ECHR’).

2 The request has been submitted in the context of proceedings relating to the execution, in Bulgaria, of an arrest warrant issued by the Regional Public Prosecutor’s Office in Hordaland (Norway) against KT.

### **Legal context**

#### ***Agreement on the surrender procedure***

3 The preamble to the Agreement on the surrender procedure states:

‘The European Union,

on the one hand, and

the Republic of Iceland,

and

the Kingdom of Norway,

on the other hand,

hereinafter referred to as “the Contracting Parties”,

Wishing to improve judicial cooperation in criminal matters between the Member States of the European Union and [the Republic of] Iceland and [the Kingdom of] Norway, without prejudice to the rules protecting individual freedom,

Considering that current relationships among the Contracting Parties require close cooperation in the fight against crime,

Expressing their mutual confidence in the structure and functioning of their legal systems and in the ability of all Contracting Parties to guarantee a fair trial,

Considering that [the Republic of] Iceland and [the Kingdom of] Norway have expressed their wish to enter into an agreement enabling them to expedite arrangements for handing over suspects and convicts with the Member States of the European Union and to apply a surrender procedure with the Member States,

...’

4 Article 1(1) to (3) of that agreement is worded as follows:

‘1. The Contracting Parties undertake to improve, in accordance with the provisions of this Agreement, the surrender for the purpose of prosecution or execution of sentence between, on the one hand, the Member States and, on the other hand, the Kingdom of Norway and the Republic of Iceland, by taking account of, as minimum standards, the terms of the Convention of 27 September 1996 relating to extradition between the Member States of the European Union.

2. The Contracting Parties undertake, in accordance with the provisions of this Agreement, to ensure that the extradition system between, on the one hand, the Member States and, on the other hand, the Kingdom of Norway and the Republic of Iceland shall be based on a mechanism of surrender pursuant to an arrest warrant in accordance with the terms of this Agreement.

3. This Agreement shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in the [ECHR], or, in case of execution by the judicial authority of a Member State, of the principles referred to in Article 6 [EU].’

5 Article 2(5) of that agreement provides:

“‘Arrest warrant’ shall mean a judicial decision issued by a State with a view to the arrest and surrender by another State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order.’

6 Articles 4 to 8 of that agreement set out the grounds for non-execution of the arrest warrant and the conditions to which the execution of an arrest warrant may be subject.

7 Article 4, point 2, of the Agreement on the surrender procedure states:

‘States shall establish an obligation for the executing judicial authority to refuse to execute the arrest warrant in the following cases:

...’

(2) if the executing judicial authority is informed that the requested person has been finally judged by a State in respect of the same acts provided that, where there has been sentence, the sentence has been served or is currently being served or may no longer be executed under the law of the sentencing State;

...’

8 Article 34(1) of that agreement is worded as follows:

‘Without prejudice to their application in relations between States and third States, this Agreement shall, from its entry into force, replace the corresponding provisions of the following conventions applicable in the field of extradition in relations between [the Kingdom of] Norway and [the Republic of] Iceland, on the one hand, and Member States, on the other hand:

(a) the European Convention on Extradition of 13 December 1957, its additional protocol of 15 October 1975, its second additional protocol of 17 March 1978, and the European Convention on the suppression of terrorism of 27 January 1977 as far as extradition is concerned as amended by the 2003 Protocol once it will enter into force;

...’

#### ***Framework Decision 2002/584/JHA***

9 Article 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’) is worded as follows:

‘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].’

10 Articles 3 to 5 of Framework Decision 2002/584 set out the grounds for non-execution of the European arrest warrant and the conditions to which the execution of a European arrest warrant may be subject.

11 Article 3(2) of that framework decision provides:

‘The judicial authority of the Member State of execution (hereinafter “executing judicial authority”) shall refuse to execute the European arrest warrant in the following cases:

...

(2) if the executing judicial authority is informed that the requested person has been finally judged by a Member State in respect of the same acts provided that, where there has been sentence, the sentence has been served or is currently being served or may no longer be executed under the law of the sentencing Member State;

...’

12 Article 31(1) of that framework decision states:

‘Without prejudice to their application in relations between Member States and third States, this Framework Decision shall, from 1 January 2004, replace the corresponding provisions of the following conventions applicable in the field of extradition in relations between the Member States:

(a) the European Convention on Extradition of 13 December 1957, its additional protocol of 15 October 1975, its second additional protocol of 17 March 1978, and the European Convention on the suppression of terrorism of 27 January 1977 as far as extradition is concerned;

...’

### **The dispute in the main proceedings and the questions referred for a preliminary ruling**

13 KT, who resides in Bulgaria with his children, is the subject of criminal proceedings in Norway for acts committed on its territory, classified by the authorities carrying out those proceedings as fraud which caused damage to the Norwegian social insurance system.

14 In the context of those criminal proceedings, the competent Norwegian authority issued, on 26 July 2018, an arrest warrant against KT, which was circulated by means of the Schengen Information System (SIS).

15 On 25 November 2019, KT was arrested, upon entering Poland, on the basis of the SIS alert concerning him for the purposes of his arrest.

16 On 27 November 2019, the competent Norwegian authority issued an arrest warrant on the basis of the Agreement on the surrender procedure.

17 On 15 January 2020, the Sąd Okręgowy w Warszawie (Regional Court, Warsaw, Poland) refused the execution of that arrest warrant on the basis of Article 1(3) of that agreement, considering that the surrender of KT to the Norwegian authorities would entail a breach of Article 8 of the ECHR. According to that court, such a surrender would result in the children being taken into the care of a foster family and the permanent severance of the relationship with their father. That court also considered that the Norwegian authorities could use other forms of judicial cooperation in criminal matters with the Republic of Bulgaria in the context of the criminal proceedings at issue.

18 The appeal lodged against that decision by the competent public prosecutor’s office was dismissed on 24 February 2020 by the Sąd Apelacyjny w Warszawie (Court of Appeal, Warsaw, Poland).

19 On 10 March 2020, KT was arrested again upon his entry in Bulgaria on the basis of the SIS alert for the purposes of his arrest, of which he was still the subject.

20 On 12 March 2020, the Regional Public Prosecutor's Office in Hordaland, Sogn og Fjordane (Norway) issued a new arrest warrant against KT in the context of the same criminal proceedings and based on the same grounds as those on the basis of which the arrest warrant of 27 November 2019 had been issued.

21 On 16 March 2020, the Sofiyska gradska prokuratura (Public Prosecutor's Office for the City of Sofia, Bulgaria) applied to the Sofiyski gradski sad (Sofia City Court, Bulgaria), the referring court, for the arrest warrant issued on 12 March 2020 to be executed.

22 In that context, first, that court asks whether it is possible to issue several arrest warrants against the same person in the context of the same criminal proceedings.

23 It states, in that regard, that, in view of the similarities which can be noted between the provisions of the Agreement relating to the surrender procedure and the corresponding provisions of Framework Decision 2002/584, consideration could be given to apply, by analogy, the judgment of 25 July 2018, *AY (Arrest warrant – Witness)* (C-268/17, EU:C:2018:602), in which the Court answered that question in the affirmative. It observes, however, that, unlike the case which gave rise to that judgment, the two arrest warrants at issue in the main proceedings were issued in the context of the same stage of the criminal proceedings concerned. Furthermore, that agreement does not contain a provision equivalent to Article 1(2) of that framework decision, relating to the obligation to execute European arrest warrants.

24 Secondly, that court raises the question of the possible impact of a refusal previously made by a court of a Member State to execute an arrest warrant issued by the Kingdom of Norway against a same requested person in the same criminal proceedings.

25 The referring court further states that KT's health is weak and that he has had to be hospitalised on several occasions.

26 In those circumstances, the Sofiyski gradski sad (Sofia City Court), decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Do the provisions of Article 1(2) and (3) of the [Agreement on the surrender procedure] allow the issuing of a new arrest warrant for the purposes of criminal prosecution in the same case against a person whose surrender has been refused by a Member State of the European Union on the basis of Article 1(3) of that agreement, read in conjunction with Article 6 [TEU] and Article 8 of the [ECHR]?

(2) Do the provisions of Article 1(3) of the [Agreement on the surrender procedure], as well as those of Articles 21(1) and 67(1) [TFEU] and those of Articles 6 and 45(1) of the [Charter], allow a Member State, to which an arrest warrant is addressed, to rule again in the case in which another Member State refused to surrender the same [requested] person for the purposes of [the same] criminal proceedings, on the ground that that person has exercised his or her right of free movement and moved from the State in which surrender had been refused to the State to which the new arrest warrant is addressed?'

### **Procedure before the Court**

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

28 By decision of 22 February 2021, the Court decided, on a proposal from the Judge-Rapporteur, after hearing the Advocate General, that there was no need to comply with that request, since the conditions of urgency provided for in Article 107 of the Rules of Procedure were not satisfied.

## **Consideration of the questions referred**

### ***The first question***

29 By its first question, the referring court asks, in essence, whether Article 1(3) of the Agreement on the surrender procedure must be interpreted as precluding the issuing of several successive arrest warrants against a requested person with a view to obtaining his or her surrender by a State party to that agreement after the execution of a first arrest warrant concerning that person has been refused by another State party to that agreement.

30 As a preliminary point, it must be borne in mind that the provisions of the Agreement on the surrender procedure are very similar to the corresponding provisions of Framework Decision 2002/584 (judgment of 2 April 2020, *Ruska Federacija*, C-897/19 PPU, EU:C:2020:262, paragraph 74).

31 In that context, it should be noted that no provision of that agreement prohibits the issuing of several successive arrest warrants against a person, including where the execution of a first arrest warrant concerning that person has been refused.

32 Furthermore, it is apparent from Article 1(1) and (2) of that agreement, read in the light of its preamble, that it seeks to improve and expedite judicial cooperation in criminal matters between, on the one hand, the Member States and, on the other hand, the Kingdom of Norway and the Republic of Iceland, by means of a mechanism of surrender based on close cooperation between those States and the mutual confidence that those States have expressed in the structure and functioning of their legal systems and in their ability to guarantee a fair trial.

33 Moreover, Article 34(1) of the Agreement on the surrender procedure states, like Article 31(1) of Framework Decision 2002/584, that that agreement is to replace the corresponding provisions of the conventions which it lists, including, in particular, the European Convention on Extradition, signed in Paris on 13 December 1957, in relations between, on the one hand, the Member States and, on the other hand, the Kingdom of Norway and the Republic of Iceland.

34 The surrender system provided for by that agreement thus seeks, like that framework decision, by establishing a simplified and more effective system for surrendering persons convicted or suspected of having infringed criminal law, to facilitate and expedite judicial cooperation between the Member States to the same agreement and to fight against the impunity of a requested person who is in a territory other than that on which he or she allegedly committed an offence.

35 However, a systematic prohibition, for the issuing authority of a State party to the Agreement on the surrender procedure, to issue a new arrest warrant in the event of refusal to execute a first arrest warrant judgment by another State party to that agreement would undermine the effectiveness of the surrender system established by that agreement and would entail a risk of impunity for persons who attempt to escape justice.

36 Thus, such an issuing may prove necessary, in particular after the factors which prevented the execution of a previous arrest warrant have been ruled out or, where the decision refusing to

execute that arrest warrant was not consistent with the Agreement on the surrender procedure, in order to conduct the procedure for the surrender of a requested person to its conclusion and thus to promote the attainment of the objective of combating impunity pursued by that agreement (see, by analogy, judgment of 31 January 2023, *Puig Gordi and Others*, C-158/21, EU:C:2023:57, paragraph 141).

37 By contrast, it should be noted, in the first place, that Article 1(3) of that agreement provides that it is not to have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in the ECHR, or, in case of execution by the judicial authority of a Member State, of the principles referred to in Article 6 TEU, which covers, in particular, the fundamental rights enshrined in the Charter.

38 It follows that the existence of a risk of infringement of the fundamental rights set out in the Charter is capable of permitting the executing judicial authority to refrain, exceptionally and following an appropriate examination, from giving effect to an arrest warrant on the basis of Article 1(3) of the Agreement on the surrender procedure (see, by analogy, judgment of 31 January 2023, *Puig Gordi and Others*, C-158/21, EU:C:2023:57, paragraph 72).

39 Therefore, the issuing of an arrest warrant the execution of which would lead to an infringement of the Charter and should, in the circumstances set out in the previous paragraph, be refused by the executing judicial authority is not compatible with the principles of mutual confidence and close cooperation in the fight against crime referred to in paragraph 32 of this judgment (see, by analogy, judgment of 31 January 2023, *Puig Gordi and Others*, C-158/21, EU:C:2023:57, paragraph 142).

40 Accordingly, an issuing judicial authority cannot, in the absence of a change in circumstances, issue a new arrest warrant against a person after an executing judicial authority has refused to give effect to a previous arrest warrant issued against that person, in accordance with the requirements that were imposed on it by Article 1(3) of the Agreement on the surrender procedure (see, by analogy, judgment of 31 January 2023, *Puig Gordi and Others*, C-158/21, EU:C:2023:57, paragraph 143).

41 In the second place, since the issuing of an arrest warrant may result in the arrest of the person for whom it has been issued and, therefore, may prejudice that person's individual freedom, it is for the judicial authority that is considering issuing an arrest warrant to examine whether, in the light of the particular circumstances of the case, it is proportionate to issue that warrant (see, by analogy, judgment of 31 January 2023, *Puig Gordi and Others*, C-158/21, EU:C:2023:57, paragraph 144).

42 In the context of such an examination, it is for that judicial authority, inter alia, to take into account the nature and gravity of the offence for which the requested person is being prosecuted, the consequences for that person of the arrest warrant or warrants previously issued against him or her, or the prospects of execution of any new arrest warrant (see, by analogy, judgment of 31 January 2023, *Puig Gordi and Others*, C-158/21, EU:C:2023:57, paragraph 145).

43 In the light of all the foregoing considerations, the answer to the first question is that Article 1(3) of the Agreement on the surrender procedure must be interpreted as not precluding the issuing of several successive arrest warrants against a requested person with a view to obtaining his or her surrender by a State party to that agreement after the execution of a first arrest warrant concerning that person has been refused by another State party to that agreement, provided that the



execution of a new arrest warrant does not result in an infringement of that provision and provided that the issuing of that latter arrest warrant is proportionate.

***The second question***

44 By its second question, the referring court asks, in essence, whether the Agreement on the surrender procedure, Article 21(1) and Article 67(1) TFEU and Article 6 and Article 45(1) of the Charter must be interpreted as precluding the execution of an arrest warrant by one Member State from being refused solely on the ground that another Member State has refused to execute a first arrest warrant issued by the Republic of Iceland or the Kingdom of Norway against the same person and for the same acts.

45 In that regard, it should be noted that, admittedly, the Agreement on the surrender procedure does not contain a provision equivalent to Article 1(2) of Framework Decision 2002/584, relating to the obligation to execute European arrest warrants.

46 That being said, as noted in paragraphs 32 to 34 of this judgment, the surrender system provided for by that agreement seeks, like that framework decision, by establishing a simplified and more effective system for surrendering persons convicted or suspected of having infringed criminal law, to facilitate and expedite judicial cooperation between, on the one hand, the Member States and, on the other hand, the Kingdom of Norway and the Republic of Iceland, and to fight against the impunity of a requested person who is in a territory other than that on which he or she allegedly committed an offence.

47 Furthermore, that agreement is structured in the same way as that framework decision and it lists, in its Articles 4 to 8, the grounds for non-execution of an arrest warrant and the conditions to which the execution of an arrest warrant may be subject, like the provisions of Articles 3 to 5 of that framework decision.

48 It follows that, despite the absence of an express provision to that effect in the Agreement relating to the surrender procedure, the State parties to that agreement are, in principle, required to act upon an arrest warrant issued by another Member State to that agreement and may refuse to execute such a warrant only for reasons arising from the same agreement.

49 In particular, as recalled in paragraph 38 of this judgment, the existence of a risk of infringement of the fundamental rights set out in the Charter is capable of permitting the executing judicial authority to refrain, exceptionally and following an appropriate examination, from giving effect to an arrest warrant on the basis of Article 1(3) of the Agreement on the surrender procedure.

50 In that regard, it follows from the Court's case-law that, in a situation where there are substantial and established grounds for believing that, if he or she is surrendered to the issuing Member State, the requested person will be subject to a real risk of a significant reduction in his or her life expectancy or of a rapid, significant and irreversible deterioration in his or her state of health, regard must also be had to that provision (see, by analogy, judgment of 18 April 2023, *E.D.L. (Ground for refusal based on illness)*, C-699/21, EU:C:2023:295, paragraphs 42, 50 and 52).

51 On the other hand, no provision of the Agreement on the surrender procedure provides for the possibility of refusing the execution of an arrest warrant when the execution of a first arrest warrant concerning the same person and the same acts was refused by a State party to that agreement.

52 Thus, it must be stated that the decision of an executing authority to refuse the execution of an arrest warrant cannot be assimilated to having been ‘finally judged’, within the meaning of Article 4, point 2, of that agreement, the only ground capable of preventing criminal proceedings from being brought for the same acts, against that person, in the issuing State, or from being instituted in any other State.

53 It should be borne in mind, in that regard, that a requested person is considered to have been finally judged in respect of the same acts within the meaning of Article 3(2) of Framework Decision 2002/584, which corresponds, in essence, to Article 4, point 2, of that agreement, where, following criminal proceedings, further prosecution is definitively barred or where the judicial authorities of a Member State have adopted a decision by which the accused is finally acquitted in respect of the alleged acts (see, to that effect, judgment of 16 November 2010, *Mantello*, C-261/09, EU:C:2010:683, paragraph 45).

54 The examination of a request for surrender does not imply the initiation of criminal proceedings by the executing State against the person whose surrender is requested and does not involve an assessment of the merits of the case.

55 Under those circumstances, while the existence of a decision by the executing authority of a Member State to refuse the execution of an arrest warrant issued by the Republic of Iceland or the Kingdom of Norway on the basis of Article 1(3) of the Agreement on the surrender procedure must, admittedly, encourage vigilance from the executing authority of another Member State to which a new arrest warrant issued by that State against the same person for the same acts has been addressed, that circumstance is not liable to exempt the executing authority of the latter Member State from its obligation to examine the request for surrender and to take a decision on the execution of the arrest warrant.

56 A different conclusion cannot be inferred from Article 21(1) or Article 67(1) TFEU or from Article 6 or Article 45(1) of the Charter.

57 It is apparent from Article 2(5) of the Agreement on the surrender procedure that the concept of ‘arrest warrant’ within the meaning of that agreement, is defined as referring to a judicial decision issued by a State party to that agreement for the arrest and surrender by another State party to the same agreement of a requested person for the purposes of criminal proceedings or the execution of a custodial sentence or a measure involving deprivation of liberty.

58 It follows that the aim of the surrender mechanism laid down by the Agreement on the surrender procedure is to enable the arrest and surrender of a requested person, so that the crime committed does not go unpunished and that that person is prosecuted or serves the custodial sentence ordered against him or her (see, by analogy, judgment of 30 June 2022, *Spetsializirana prokuratura (Information on the national arrest decision)*, C-105/21, EU:C:2022:511, paragraph 74).

59 The arrest of the person whose surrender is requested by the issuing of an arrest warrant is therefore an integral part of the surrender system provided for by that agreement.

60 While such provisional arrest constitutes a restriction of the right of the person concerned to freedom of movement and his or her right to liberty and security, such arrest must nevertheless, in principle, be regarded as justified by the legitimate aim of preventing that person from evading punishment, an objective which falls within the context of the area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured, as provided for in

Article 3(2) TEU (see, by analogy, judgment of 12 May 2021, *Bundesrepublik Deutschland (Interpol red notice)*, C-505/19, EU:C:2021:376, paragraph 86).

61 In the light of all the foregoing considerations, the answer to the second question is that the Agreement on the surrender procedure must be interpreted as precluding the execution of an arrest warrant by one Member State from being refused solely on the ground that another Member State has refused to execute a first arrest warrant issued by the Republic of Iceland or the Kingdom of Norway against the same person and for the same acts.

### Costs

62 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 (Sixth Chamber) hereby rules:

**1. Article 1(3) of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway, which was approved, on behalf of the European Union, by Council Decision 2014/835/EU of 27 November 2014 on the conclusion of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway**

**must be interpreted as not precluding the issuing of several successive arrest warrants against a requested person with a view to obtaining his or her surrender by a State party to that agreement after the execution of a first arrest warrant concerning that person has been refused by another State party to that agreement, provided that the execution of a new arrest warrant does not result in an infringement of that provision and provided that the issuing of that latter arrest warrant is proportionate.**

**2. The Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway which was approved, on behalf of the European Union, by Decision 2014/835**

**must be interpreted as precluding the execution of an arrest warrant by one State party from being refused solely on the ground that another State party has refused to execute a first arrest warrant issued by the Republic of Iceland or the Kingdom of Norway against the same person and for the same acts.**

[Signatures]

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\* Language of the case: Bulgarian.